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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.100 of 2010
Cuttack, this the 31st day of August, 2012

B.B.Mohanti Applicant
Versus
Union of India & Others Respondents

O R D E R

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THE HON'BLE MR.C.R.MOHAPATRA, MEMBER, (ADMN.)
And
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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The prayer of the Applicant in this OA is to quash the order No. 756/IPS/1-28/2009 dated 16th February, 2010 under Annexure-A/5 and pass any other order/orders as deemed fit and proper.

2. In Annexure-A/5 the applicant was intimated the fate of his representation pursuant to the direction of this Tribunal in OA No. 217 of 2009 dated 21st January, 2010.

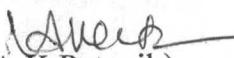
3. In the representation it was the contention of the applicant that since disciplinary proceedings have direct nexus with the criminal case instituted against him the authority should not have proceeded with the departmental proceedings till conclusion of the criminal case. It is the contention of the Applicant's Counsel that the Respondents rejected the representation of the applicant without taking into consideration the above aspects of the matter especially when the charges in criminal case are grave in nature involving complicated question of facts and law and disclosure of his

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defence in the disciplinary proceedings prior to culmination of the criminal case would affect his right to effectively defend the case pending in criminal court.

4. The above submission of the Applicant's Counsel was objected to by Respondents' Counsel on the ground that there is no bar for simultaneously conducting both the proceedings and as such at this stage the Tribunal may not interfere in this matter and allow the Respondents to proceed and conclude the disciplinary proceedings initiated against the Applicant. Accordingly it was prayed that this OA being devoid of any merit is liable to be dismissed.

5. Having heard Learned Counsel for both sides we have perused the documents placed on record. In view of the specific submission of the Learned Counsel for the applicant that the Respondents rejected the representation without taking into consideration that charges in criminal case are same in the disciplinary proceedings, we do not feel it necessary to go to the depth of the matter. After going through the impugned order, we do not have an iota of doubt that rejection of the representation was without taking into consideration the specific stand of the Applicant canvassed in Annexure-A/4. Hence the impugned order under Annexure-A/5 is hereby quashed and the matter is remitted back to the Respondents to reconsider the points raised by the Applicant and communicate the decision in a well reasoned order before proceeding further with the Disciplinary proceedings. In the result, with the aforesaid observation and direction this OA stands disposed of. There shall be no order as to costs.


(A.K. Patnaik)
Member(Judicial)


(C.R. Mohapatra)
Member (Admn.)