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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 147 of 2013
Cuttack, this the 20th day of March, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

Pramod Kumar Pradhan,
Aged about 60 years,
S/o. Late Gopinath Pradhan,
Village-Jagannathpur,
PO-Singhpur,
PS-Dharmasala,
Dist.Jajpur,
PA, Rayagada HO,
Baipariguda,
Dist. Koraput.

...Applicant
(Advocate(s) : M/s.D.P.Dhalsamant, N.M.Rout)

VERSUS
Union of India Represented through

1. Director General of Posts,
Government of India,
Ministry of Communication,
Department of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi-110 001.
2. Chief Post Master General,
Odisha Circle,
Bhubaneswar,
Dist. Khurda.

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3. Director Postal Services,
O/O-Post Master General,
Berhampur,
Dist.Ganjam.
4. Senior Superintendent of Post Offices,
Koraput Division,
At/Po/Dist. Koraput.
5. Shri B.K.Satapathy,
Inquiry Officer-Cum-ASPOs (OD),
Berhampur Division,
Berhampur,
Dist. Ganjam-760 001

... Respondents

(Advocate: Mr.U.B.Mohapatra)

O R D E R

A.K.PATNAIK, MEMBER (I):

Heard Mr.D.P.Dhalsamanta, Learned Counsel for the Applicant and Mr.U.B.Mohapatra, Learned Senior CGSC appearing for the Respondents and perused the records.

2. The Applicant (Pramod Kumar Pradhan) has filed this Original Application U/s.19 of the Administrative Tribunals Act, 1985 seeking to quash the charge sheet issued under Rule 14 of the CCS (CC&A) Rules, 1965 dated 17.10.2011 (Annexure-A/1) and Memo dated 13.03.2013 along



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with inquiry report dated 12.3.2013 (Annexure-A/10) with further prayer to direct the Respondents to grant him all consequential benefits.

3. The main stand in support of the relief sought by the Applicant is that when case under Prevention of Corruption Act U/s.409 IPC is under consideration before the Learned Special Judge, CBI, Bhubaneswar (RC No. 15/2009), as per the Rules of the Government the Respondents ought not to have proceeded with the departmental proceedings after three years from the date of FIR on allegation of misappropriation of Government money; Corrigendum dated 17.12.2012 to the main charge sheet dated 17.10.2011 as reflected in the report of the IO had never been supplied to the applicant; order appointing IO and PO has not been made known to the Applicant; IO & PO had not been appointed by the Authority who is competent to do so and the IO and PO proceeded with the enquiry in violation of the principles of natural justice. It is the case of the Applicant that being aggrieved he has submitted representation to the Senior Superintendent of Post Offices, Koraput Division, Koraput/Respondent No.4 on 22.02.2012

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with copy to the Director of Postal Services, Berhampur Region, Ganjam/Respondent No.3 and IO cum ASP (OD)/Respondent No.4 requesting to supply him the listed documents and allowing him to participate in the enquiry through his defence assistant. It is the further case of the applicant that during the pendency of the said representation the IO proceeded with the enquiry, set the enquiry *ex parte* and submitted its report copy of which has been supplied to the applicant vide letter dated 13.3.2013 asking the applicant to submit his reply, if any, within 15 days from the date of receipt of copy of the report.

4. Mr.D.P.Dhalsamanta, Learned Counsel appearing for the Applicant submitted that the Applicant will reach the age of retirement on 31.3.2013 and fifteen days time as allowed to the applicant will expire on 28th March, 2013 and, therefore, such a hasty step has been taken only to remove the applicant from service and unless this Tribunal intervenes in the matter at this stage, gross injustice would be caused to the applicant.

5. On the other hand, Mr.U.B.Mohapatra, Learned Senior CGSC appearing for the Respondents, after receipt copy

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of the OA, strongly objected to the entertaining this OA at this stage being premature. According to him, if any injustice was caused to the applicant, he can now state so in pursuance of the report of the IO before the Disciplinary Authority who can pass appropriate order only after considering all the points to be raised by the applicant before him.

6. To the above, it was contended by Mr.D.P.Dhalsamanta, Learned Counsel for the Applicant that allowing the applicant to participate in the enquiry by supplying the listed documents is the integral part of disciplinary proceedings which is also in consonance with the compliance of the principles of natural justice. Since the applicant submitted representation requesting opportunity to be defended by defence assistant in the enquiry after receipt of listed documents, proceeding with the enquiry ex parte during the pendency of such request before the competent authority is nothing but amounts to violation of principles of natural justice. Hence Mr. Dhalsamanta, Learned Counsel for the Applicant prayed that he would be satisfied if this OA is disposed of at this stage with direction to the Respondent No.3 & 4 to take a

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decision on the pending representation of the applicant dated 22.2.2013 and thereafter allow him some time to submit his reply to the report of the IO based on which the DA should be made free to pass orders as per Rules and Law.

7. At this stage, Mr.U.B.Mohapatra, Learned Senior CGSC appearing for the Respondents submitted that direction to dispose of the representation at this stage without submitting any reply to the report of the IO would tantamount to reopening the entire issue which is not permissible in the eyes of law.

8. Law is well settled that in a departmental enquiry entailing consequences like loss of job which now-a-days means loss of livelihood, there must be fair play in action; in respect of an order involving adverse or penal consequences against an employee, there must be investigations to the charges consistent with the requirement of the situation in accordance with the principles of natural justice. The principles of natural justice are required to be given full play and strict compliance should be ensured, even in the absence of any provision providing for the same. Principles of natural justice

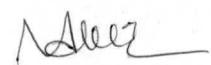
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require a fair opportunity of defence to a delinquent in disciplinary proceedings.

9. Considering the rival submissions of the parties and keeping in mind the well settled law with regard to compliance of principles of natural justice, I feel no injustice would be caused to any of the parties if on the basis of the oral prayer of the Learned Counsel for the Applicant this OA is disposed of at this stage giving opportunity to the Respondent Nos.3 & 4 to first take and make known the decision to the applicant on his pending representation dated 22.2.2013 i.e. before submission of his reply to the report of the IO.

10. In view of the above, without expressing any opinion on the merit of the matter this OA is disposed of at this admission stage with direction to the Respondent Nos.3 & 4 to take and make known the decision to the applicant on his representation dated 22.2.2013 by a reasoned order within a period of seven days hence and thereafter within fifteen days he should submit his reply to the report of the IO to the DA who shall consider the same and pass appropriate order as per Rules. Till the reply of the applicant to the report of the IO is



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considered the final order on the Disciplinary Proceedings should not be passed.

11. Copy of this order along with paper book be transmitted to Respondent Nos.3 & 4 by speed post at the cost of the Applicant; for which Mr.Dhalsamanta, Learned Counsel for the Applicant undertakes to furnish required postal requisites in course of the day.

A.K.Patnaik
(A.K.Patnaik)
Member (Judicial)