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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00733/14

Cuttack this the 20th day of October, 2014

CORAM

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Sri Kshama Sil Bagh
Aged about 3 years
S/o. late Gokul Bagh
At-Laikara, Post-Kalamegha
Via-Sargipalli
Dist-Sundargarh-770 021
Now working as ASPOs (Hqrs.)
Keonjhar Division
At/PO-Keonjhargarh
Dist-Keonjhar

...Applicant

By the Advocate(s)-M/s.P.K.Padhi
M.P.J.Ry
J.Mishra

-VERSUS-

Union of India represented through

1. The Secretary cum Director General of Posts
Dak Bhawan, Sansad Marg
New delhi-110 116
2. Member(Personnel), Postal Services Board
Dak Bhawan, Sansad Marg
New Delhi-110 116
3. Chief Post Master General
Odisha Circle
Bhubaneswar-751 001

...Respondents

By the Advocate(s)-Ms.S.Mohapatra



ORDER**R.C.MISRA, MEMBER(A)**

Applicant, presently working as Assistant Superintendent of Post Offices, Keonjhar Division, has moved this Tribunal in the instant O.A. seeking the following relief.

“..to quash Annexure-A/4 and to allow the applicant to continue in service”.

2. As an interim measure, Annexure-A/4 has been sought to be stayed.
3. The short facts of the matter are that in consequence of disciplinary proceedings, applicant has been imposed with punishment of compulsory retirement vide order dated 8.10.2014(A/4). Against this punishment, he has submitted an appeal dated 11.10.2014 before the Appellate Authority, viz., Member(Personnel), Postal Services Board, New Delhi, Respondent No.2 and simultaneously, moved this Tribunal in the present O.A. seeking the aforementioned relief.
4. When pointed out regarding the maintainability of this O.A. as a minimum period of six months has not expired from the date of preferring appeal, the learned counsel for the applicant submitted that this is an extraordinary situation arising in view of the fact that without following the due procedure of rules, applicant has been imposed with punishment of compulsory retirement and in the event, the Tribunal did not entertain this



O.A. and grant interim relief on the order of punishment, the O.A. itself would be rendered infructuous.


5. To fortify his stand, learned counsel for the applicant has brought to our notice two decisions, i.e., one of CAT, Madras Bench and another of this Bench, and accordingly, renewed his prayer.

6. We have heard Shri P.K.Padhi, learned counsel for the applicant and Ms.S.Mohapatra, learned ACGSC for the Respondents on the question of admission.

7. We have gone through the averments made in the O.A. and considered the submissions of the learned counsels for both the sides.

8. Section 20 of the A.T.Act, 1985 deals with "**Application not be admitted unless other remedies exhausted**". In this connection, Sub-Section 2()(b) which is relevant to the instant case reads as under.

"where no final order has been made by the Government or authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired".

9. Admittedly, after two or three days ^{of}  after preferring appeal, applicant has approached this Tribunal seeking relief. Having regard to above provisions of the Act, in our view, the present O.A. is too premature.



10. Section 20(1) of the Act provides that a Tribunal shall not 'ordinarily' admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Even though counsel for the applicant pleaded here that this was an extraordinary case, we do not find the ingredients of any extraordinary situation to override the statutory provisions.

11. We have also gone through the decisions cited by the applicant in support of his contentions. In both the decisions, after the Appellate Authorities had rejected the appeal, the Tribunal had entertained the matters. Therefore, factually the present O.A. is distinguishable from the facts of those decisions and hence, the same cannot be relied upon.

12. As regards the plea of the applicant that if the O.A. is not admitted and interim order of stay is not granted, the O.A. would be rendered infructuous, we would say that the applicant is not going to suffer any irreparable loss which cannot be compensated in terms of money value.

13. However, we hope and trust that the Appellate Authority will soon consider and decide the appeal preferred by the applicant against the order of punishment.

With the above, the O.A. is rejected without being admitted.


(R.C.MISRA)
MEMBER(A)

BKS


(A.K.PATNAIK)
MEMBER(J)