

3

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No. 260/0000102/14
Cuttack, this the 4th day of March, 2014

CORAM
HON'BLE MR.A.K.PATNAIK, MEMBER(JUDL.)
HON'BLE MR. R.C.MISRA, MEMBER (ADMN.)

.....

Sri Biswambar Patra,
aged about 64 years,
S/o. Late Suna Patra,
Village: Ghutakeswari,
Po.-Naranpur,
Dist.-Keonjhar, 758014.

....Applicant

(Advocate(s)-M/s. P.K. Padhi, J. Mishra)

-VERSUS-

Union of India Represented through

1. Secretary-cum-Director General of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi. 1100116.
2. Director of Postal Services,
Sambalpur Region,
At/Po./Dist-Sambalpur-768001.
3. Superintendent of Post Offices,
Kalahandi Division,
At/Po.-Bhawanipatna,
Dist-Kalahandi, Odisha-766001,
4. Secretary, Union Public Service Commission,
Dholpur House, Sahajahan Road, New Delhi.

.....Respondents

(Advocate (s) - Ms. S. Mohapatra (R-1-3), Mr. P.R.J. Dash (R-4))



O R D E R (Oral)

A.K.PATNAIK, MEMBER (JUDL.):

Copy of this OA have been served on Ms. S. Mohapatra, Learned Additional CGSC for the Union of India, for Respondent Nos. 1 to 3 and Mr.P.R.J.Dash, Learned Additional CGSC for Union of India, for Respondent No.4 who accepts notice for the Respondents in this OA. Registry is directed to serve notices, in terms of sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987 for onward transmission.

2. This OA has been filed by the applicant seeking to quash the charge sheet issued vide Memo dated 5th December, 2008 under Rule 14 of the CCS (CC&A) Rules, 1965 (Annexure-A/2) and the report of the IO communicated to the applicant in letter dated 1st/8th May, 2013 (Annexure-A/5).

3. Heard Mr.P.K. Padhi, Learned Counsel for the Applicant, Ms.S. Mohapatra, Learned Additional CGSC appearing for Respondent Nos. 1 to 3 and Mr. P.R.J. Dash, Learned Additional CGSC appearing for Respondent No.4 and perused the records.

4. Mr. Padhi's contention is that continuance of the proceedings for five years that too after retirement of the applicant without releasing the retrial benefits is nothing but against the settled principle of law. The charge sheet was issued without due application of mind and the same is vague and that action was taken against the applicant by the Respondent No.3 without due application of mind arbitrarily whimsically in mala fide exercise of power. Hence while praying for the prayers made in this OA by way of ad interim measure he has prayed for issuance of direction to the Respondents to release the retrial benefits in favour of the applicant.

[Signature]

5. On the other hand learned counsel appearing for the Respondents vehemently opposed the very maintainability of this Original Application being premature and have prayed for dismissal of this OA.

6. We find that charge sheet under rule 14 of the CCS (CC&A) Rules, 1965 was issued to the Applicant on 5th December, 2008. The matter was enquired into. The applicant participated in the enquiry. The IO submitted ^{his} report copy of which was supplied to the applicant giving him opportunity to submit his defence, if any, to which the applicant has also submitted his written statement of defence on 11.6.2013. Thereafter, he has filed this Original Application praying that as the charge was vague the same is liable to be set aside and consequently the report submitted by the IO needs to be quashed. Maintaining self restraint in a matter of disciplinary proceedings, especially at a interlocutory stage that too after submission of the written statement of defence to the report of the IO and before any final decision is taken/communicated by the DA, as in the instant case is no more res integra as in terms of the Rules, in such matters it is for the DA and AA to take decision at the first instance. Therefore, keeping in mind various dicta pronounced by the Hon'ble Apex Court on the subject vis-à-vis the present status of the disciplinary proceedings; we see no justification to interfere in this matter, at this stage. Hence this OA being misconceived is accordingly dismissed at this admission stage.

7. However, considering the contention of Mr. Padhi that despite the law as propounded by the Hon'ble Apex Court to the effect that pendency of the disciplinary proceeding shall not stand as a bar, to release the retirement dues of an employee the applicant has not been paid his retirement dues till date. We find that such a stand has been taken by the

[Signature]

applicant for the first time in this OA. In view of the above liberty is granted to the applicant to make representation to the above effect to the competent authority (enclosing thereto copy of this order) and upon receipt of such representation the said authority is directed to consider the same and communicate the result thereof to the applicant within a period of sixty days from the date of receipt of copy of this order.



(R.C.Misra)
Member (Admn.)



(A.K.Patnaik)
Member (Judicial)