

27-3-2017 - 10-4-2017

IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL CALCUTTA BENCH  
CIRCUIT BENCH AT PORT BLAIR

O.A. No. 351/00549/A&N/2017

Shri Mahananda Baroi,  
Aged about 45 years,  
S/o late Manindra Baroi,  
Working as Chodhury,  
Under Revenue department,  
Mayabunder Tehsil,  
North & Middle Andaman.

..... Applicant

-Versus-

1. The Union of India,  
Through the Secretary,  
Ministry of Home Affairs,  
Jaisalmer House, 26,  
Mansingh Road,  
New Delhi - 111 001.
2. The Lt. Governor,  
Raj Niwas, Kamraj Road,  
A&N Islands,  
Port Blair.
3. The Deputy Commissioner,  
South Andaman District,  
Port Blair.

----- Respondents

*AL*

No. O.A. 351/00549/2017

Date of order: 10.4.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member  
Hon'ble Ms. Minnie Mathew, Administrative Member

For the Applicant : Ms. S. Mandal, Counsel

For the Respondents : Mr. S.C. Misra, Counsel

### **ORDER (Oral)**

#### **Per A.K. Patnaik, Judicial Member:**

Heard Ms. S. Mandal, Ld. Counsel appearing for the applicant and Mr. S.C. Misra, Ld. Counsel appearing for the departmental respondents.

2. This O.A. has been filed by the applicant, who is at present working as Choudhury, under Revenue Department, under Section 19 of the Administrative Tribunal Act, 1985 challenging memorandum dated 12.8.2016 issued to him by the disciplinary authority, order dated 10.2.2017 passed by the disciplinary authority through which the said authority appointed the Inquiry Officer to proceed with the enquiry and appointed presenting officer and also non-consideration of the representation dated 30.8.2016 by which the applicant has prayed for withholding of the departmental proceedings. Through this O.A., the applicant has sought for the following reliefs:-

- "a) An order/orders/direction/directions staying the disciplinary proceedings initiated by the respondent authorities vide Memorandum dated 12.8.2016 issued by the disciplinary authority till the disposal of the criminal case.
- b) An order/orders/direction/directions directing the respondent authorities to act in accordance with law.
- c) An order to issue directing the respondents to produce the records of the case before this Hon'ble Tribunal so that conscionable justice may be done.
- d) Costs and incidentals of the application may be awarded to the applicant.
- e) Such other or further order, direction or directions, as Your Lordships deem fit and proper in the interest of Justice."

3. As per the Ld. Counsel appearing for the applicant, the sum and substance of the dispute are that he was appointed as Choudhury in Revenue Department



of the Andaman & Nicobar Administration, Port Blair. He was implicated in a case under Section 7/13 (1) (d)/13(20 of POC Act, 1988 bearing FIR No. 04/2015 dated 11.6.2015. He was arrested and sent to judicial custody after production before the Ld. Chief Judicial Magistrate at Port Blair. Accordingly, he was suspended from service. He was suspended till 16<sup>th</sup> March, 2016 after which he was reinstated. He was served with a charge-sheet dated 13.10.2016. In January, 2016, he was served with a charge-sheet vide memorandum dated 12.8.2016 along with articles of charge. The disciplinary authority informed him to submit his written statement to the articles of charge levied upon him within 10 days from the date of receipt of the said memorandum and also to state whether he desires to be heard in person. Vide letter dated 30.8.2016 he submitted his written submissions to the memorandum dated 12.8.2016. He denied the entire articles of charge issued to him. On 30.8.2016 itself he preferred a representation to the Deputy Commissioner, South Andaman District, Port Blair requesting him to stall the disciplinary proceedings, which is still pending consideration.

4. Ms. S. Mandal, Ld. Counsel for the applicant submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondent No. 3 to dispose of the representation dated 30.8.2016 within a specific time frame.

5. Though no notice has been issued still then we think it appropriate to dispose of this O.A. without waiting for reply by directing the respondent No. 3 (i.e. the Deputy Commissioner, South Andaman District, Port Blair) that if any such representation has been preferred on 30.8.2016 and the same is still pending consideration, then it may be considered and disposed of by way of a well-reasoned order within a period of two months from the date of receipt of a copy of this order under communication to the applicant and if after such consideration, the applicant's grievance is found to be genuine, then expeditious



steps may be taken within a further period of three months from the date of such consideration to extend those benefits to the applicant.

6. We make it clear that we have not gone into the merits of the matter and all points are kept open for the respondents to consider the same as per the rules and regulations in force.

7. It is made clear that no coercive action will be taken by the respondents till the representation is considered and disposed of and result thereof is communicated to the applicant.

8. A copy of this order along with paper book be transmitted to the respondent No. 3 by speed post for which Ms. S. Mandal undertakes to deposit necessary cost in the Registry within a week.

9. With the aforesaid observation and direction, the O.A. is disposed of.

(Minnie Mathew)  
Administrative Member

(A.K. Patnaik)  
Judicial Member

SP