

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
CALCUTTA BENCH: KOLKATA

O.A No. 35/128 of 2019

In the matter of;

An application under Sec.19 of the
Administrative Tribunals' Act, 1985.

And

In the matter of;

Sri Prasant Kumar Panigrahi, aged about 41
years, son of Sri Sasasdhar Panigrahi, Ex-Asst.
Geologist, Gr.I, Geological Survey of India,
residing in Plot No.1091, Lane No.6,
Aerodrome Area, P.S. Old Town,
Bhubaneswar, Dist. Khurda-751020.

.....Applicant

- Versus -

1. Union of India represented through its
Secretary to Government of India, Ministry of
Mines, Room No.-320, 3rd Floor, A-Wing,
Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi-110001.
2. The Director General, Central Hd. Quarters,
Geological Survey of India, 27, Jawahar Lal
Nehru Road, Kolkata-700016.
3. The Under Secretary to Government of India,
Ministry of Mines, Shastri Bhawan, New Delhi,
PIN -110001.
4. The Deputy Director General (Operation),
J&K, Geological Survey of India, Yard No.-2,
Transport Nagar, Narwal, Jammu-180006.

..... Respondents.

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/138/2019

Date of Order: 30.01.2019

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

Prasant Kumar Panigrahi -vs- M/o Mines

For the Applicant(s): Mr. S. Pattanaik, Counsel

For the Respondent(s): Mr. A. K Chattopadhyay, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Mr. S.Pattanaik, Ld. Counsel for the applicant. Mr. Pattanaik submitted that he has already sent copy of the O.A., along with annexures, to Respondents.

2. As no-one appears on behalf of the Respondents and Mr. A.K.Chattopadhyay, Ld. Counsel, who usually appears for the Union of India, is present in the Court, on my request, Mr. Pattanaik has served copy of the O.A., along with annexures, on him as I do not want the Official Respondents to go unrepresented. Heard Mr. A.K.Chattopadhyay, in extenso.

3. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

“ i) To quash the Memorandum of charges dated 6.6.2007 (Annexure-A/1), dated 3.3.2009 (Annexure-A/2) and dated 7.12.2009 (Annexure A/3).

ii) to quash the order of punishment dated 27.4.2012 (Annexure A/4).

iii) to quash the order 2nd January, 2014 (Annexure A/).

iv) And direct the Respondents to reinstate the Applicant into service and pay him all consequential service and financial benefits retrospectively;

v) To allow this OA with costs. ”

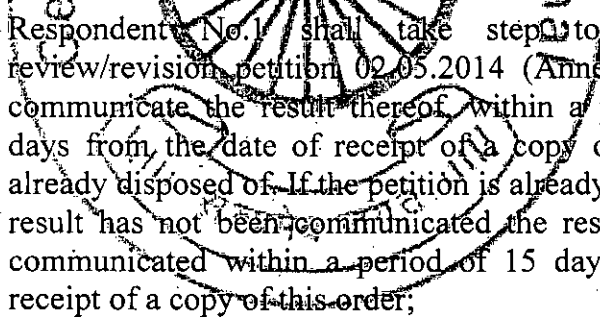
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4. Brief facts of the case, as narrated by Ld. Counsel for the applicant, is that the applicant, Sri Prasant Kumar Panigrahi, was working as Asst. Geologist, Gr.I, Geological Survey of India. According to the Applicant, the charge sheets so also the order of disciplinary authority imposing the capital punishment of removal and the order of the appellate authority are not sustainable in the litmus test of judicial scrutiny for the same being issued by an authority who is not competent to do so and the disciplinary authority passed the order without examining the points whether the proceedings were initiated and completed in accordance with rules and complying with the principles of natural justice. The Appellate Authority failed to examine whether the IO completed the enquiry in accordance with rules by allowing sufficient opportunity to the applicant to defend and that the disciplinary authority imposed the punishment after examining such facts as provided under the Rules. It is the case of the applicant that he was not allowed any opportunity to be defended by any defence counsel as he was unable to defend his case due to his prolonged illness requiring hospitalization and that he was also not provided the documents to defend his case. Further case of the applicant is that if records are called for and perused it will establish that the reply to the report of the IO were submitted by him satisfying the unjustifiability of the entire game/gamut starting from initiation of disciplinary proceedings to the findings of the IO in its reports. The matter was placed before the DG, GSI for a decision who after considering the matters directed imposition of compulsory retirement but for the reason not known he was imposed with the punishment of removal which is not sustainable. Next contention of the applicant is that after rejection of his appeal he submitted revision/review petition dated 02.05.2014 (Annexure-A/8). But due to his illness he could not pursue the same nor approach the court early. It has been stated that due to financial difficulties he is not able to incur the expenses required for his treatment.



5. I have gone through the pleadings and materials placed in support thereof and considered the arguments advanced by the learned counsel for the applicant. According to the applicant the reviewing authority is competent to modify the punishment taking into consideration the entire facts and conditions of the applicant and, therefore, he will be satisfied if direction is issued to the Respondent No.1 to consider and dispose of the Review/Revision petition 02.05.2014 (Annexure-A/8) within a stipulated period to be fixed by this Tribunal. The applicant has not produced any evidence in support of sending the review/revision petition dated 02.05.2014 (Annexure-A/8) and, according to the applicant, he has misplaced the postal receipt during his treatment period.

6. 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 Respondent No.1 as under:

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- (i) Respondent No.1 shall take steps to dispose of the review/revision petition 02.05.2014 (Annexure-A/8) and communicate the result thereof within a period of 30(thirty) days from the date of receipt of a copy of this order, if not already disposed of. If the petition is already disposed of but the result has not been communicated the result thereof shall be communicated within a period of 15 days from the date of receipt of a copy of this order;
 - (ii) If the petition already disposed of and result is communicated the result shall be communicated once again to the applicant in his present address;
 - (iii) If the petition has not been received then Annexure-A/8 be treated as his revision/review and consider the same on merit and communicate the result thereof to the applicant within a period of 45 (forty five) days from the date of receipt of a copy of this order.

7. I hope and trust, the Respondent No.1 shall consider all the points raised by the Applicant in his revision petition dated 02.05.2014 (Annexure-A/8) on merit and sympathetically will allow opportunity of being heard to the applicant especially taking into conditions his present health condition.

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8. With the aforesaid observation and direction, this O.A. stands disposed of.

No costs.

9. Registry is directed to send a copy of this order along with OA to the Respondent No. 1 by speed post at the cost of the Applicant for which, he undertakes to deposit the cost with the Registry within a week.

10. Copies of this order be handed over to the Ld. Counsel for the parties.

(A.K.Patnaik)
Member(J)

RK/PS

