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Date of decision : October 30 ,1987.

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Applicant.

Versus

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Respondents.

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M/s. S. Misra (I), S. N. Misra,
J. M. Mohanty, Advocates.

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Mr. A. B. Mishra, Senior Standing
Counsel (Central).

C O R A M :

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.K.P.ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

J U D G M E N T

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to command the respondents to pay the applicant his back wages for the period of his illegal suspension i.e. from 21.3.1978 to 27.4.1984 when the applicant was reinstated into service.

2. Shortly stated, the case of the applicant is that the applicant was appointed as Extra-Departmental Branch Postmaster in Arjun Bindha Branch Post Office within the district of Balasore in the year 1961 and he continued as such till 21.3.1978 when he was put off from duty under Rule 9 of the Extra-Departmental Agents (Conduct & Service) Rules, 1964, because a report had been sent by the Officer-in-Charge, Tihiri Police-station that the applicant had been accused in G.R. Case No. 215 of 1978 registered under sections 419/420/114 of the Indian Penal Code. The applicant stood his trial in the said case in the Court of the Sub-Divisional Judicial Magistrate, Bhadrak. Learned Sub-Divisional Judicial Magistrate, Bhadrak by his judgment and order dated 27.4.1983 acquitted the applicant under section 248(1) of the Code of Criminal Procedure (vide Annexure-2). According to the applicant, after his acquittal the applicant was reinstated into service on 27.4.1984. The applicant, as stated above, claims for his back wages during the period of suspension and till reinstatement.

3. In their counter the respondents maintained that under Rule 9, no Extra-departmental Branch Postmaster is entitled to any back wages and therefore, the application should be dismissed.

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4. During the course of argument we have gone through the provisions contained in Rule 9 of the Extra-departmental Agents (Conduct & Service) Rules, 1964. The said rule clearly states that no Extradepartmental Branch Postmaster would be entitled to back wages during the period when the officer has been put off from duty. Such being the rule we cannot accede to the request of the applicant to grant him back wages during the period he was put off from duty. But the applicant having been acquitted on 27.4.1983 (which is admitted) the order of suspension/ put off from duty automatically lapsed and he is entitled to immediate reinstatement. Learned Senior Standing Counsel (Central) vehemently contended that it would take some time for the departmental authorities to process the matter and order reinstatement and therefore, the applicant cannot be entitled to any back wages from 28.4.1983. There may be some force in this argument but it is shocking to note that it took the departmental authorities exactly one year to process the matter and order reinstatement of the applicant into service. In all fairness it should be presumed that this pretty matter could have been processed at best within a couple of months and the applicant could have been reinstated within such period. We are unable to comprehend the reasons for which it took the departmental authorities complete one year to order reinstatement. Therefore, by giving a grace period of two months we think it appropriate, ^{that} the applicant is entitled to back wages from 27.6.1983 till 27.4.1984. Learned Senior Standing Counsel (Central) also submitted before us that during this period the applicant might have been employed elsewhere and therefore, he should not be allowed to receive double payment. This

probability also cannot be ruled out. Therefore, we would direct that the applicant would not only give a certificate to the concerned authorities as to whether he was serving any where else during this period but also ~~he~~ should file an affidavit to that effect before the competent authority and in case the applicant was serving anywhere during this period, he should not be paid anything. But if the applicant would be serving for a portion of this period then ~~if~~ that particular period he would not be entitled to any back wages from the department. For the rest period the applicant should be paid his emoluments which he would have ~~xxxx~~ ordinarily drawn from the department if he would have been in active service. The Superintendent of Post offices, Bhadrak Division (Respondent No.3) is further directed to calculate the amount to which the applicant would be entitled and the applicant should be paid his dues within a period of two months from the date of filing of the certificate and the affidavit mentioned above.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

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30.10.87.
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

g agree

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30.10.87
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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench: Cuttack.
October 30, 1987/S.Sarangi.