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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 345 of 1987.

Date of decision : November 2, 1988.

Surendranath Sahu, aged about 59 years, son of late Dhadi Sahu, at present working as Assistant Director, Accounts, Office of the Postmaster General, Orissa Circle, At, P.O. Bhubaneswar, Dist- Puri.

... Applicant.

Versus

1. Union of India, represented by its Secretary, in the Department of Posts, Dak Bhavan, New Delhi.
2. Postmaster General, Orissa Circle, At, P.O. Bhubaneswar, Dist- Puri.
3. Director General, P.A. Section Dak Bhavan, New Delhi 110 001.

... Respondents.

M/s Deepak Misra, R.N. Naik & Anil Deo, Advocates ... For Applicant.

Mr. A.B. Misra, Sr. Standing Counsel (Central) ... For Respondents. *

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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)

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
 2. To be referred to the Reporters or not ? ~~to~~
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes .
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JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985 the petitioner prays to direct Respondent No.2 to pay the arrear salary from 11.5.1966 onwards and calculate such arrears till the date of his retirement and to further direct Respondent No.2 to fix the pensionary benefits on the basis of his re-fixed pay.

2. Shortly stated, the case of the petitioner is that he is a member of the Scheduled Caste recruited in the year 1954 as an Assistant in the Postal Department. In course of time vacancies occurred in the post of Inspector of Post Offices and several employees stood the test so that a merit list could be prepared for giving promotion to the incumbents who are found to be fit and qualified. The petitioner appeared at such test along with many others including one Niranjan Behera. According to the petitioner he was placed against Serial No.13 in the merit list and Niranjan Behera was placed against Serial No. 16. For certain unknown reasons Niranjan Behera was promoted to the post of Inspector on 16.5.1964 and promotion to the same nature of post was given to the petitioner on 11.5.1966. Further case of the petitioner was that subsequently authorities having realised the mistake committed in respect of the present petitioner, vide Annexure-1, the pay of the petitioner was fixed at Rs.220/- notionally on 11.5.1966 and Rs.230/- from 16.5.1966 taking into account the pay
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scale of Sri Niranjan Behera. The petitioner seems to have felt aggrieved on the fixation of pay notionally (emphasis is ours) on 11.5.1966. Hence this application has been filed with the aforesaid prayer crux of which is that the Bench should strike down 'notionally' appearing in Annexure-1.

3. In their counter the Opposite Parties maintained that no illegality has been committed by the order passed contained in Annexure-1 and further more it was maintained by the Opposite Parties that the relevant rules having contemplated such an action to be taken by the competent authority, necessarily such action was taken according to rules. Hence the competent authority ordered that the pay of the petitioner should be notionally fixed with effect from 11.5.1966 according to the provisions contained under F.R. 27.

4. We have heard Mr. Deepak Misra, learned counsel for the petitioner and Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length. Even though it was vehemently urged by Mr. A.B. Misra, learned Sr. Standing Counsel that such pay fixation notionally is according to F.R. 27 we have given our anxious consideration to the provisions contained in F.R. 27 and the arguments advanced by Mr. Deepak Misra. In our opinion, F.R. 27 has no application and further more we find that there is substantial force in the contention of Mr. Deepak Misra that his client does not claim any higher pay to be paid to him physically

from 1964 to 1966 as the petitioner had not admittedly worked in the promotional post. But Mr. Deepak Misra's grievance on behalf of his client is that the petitioner having actually and physically worked in the promotional post of Inspector since 11.5.1966 or any day subsequent thereto when he joined the said post, the petitioner is entitled to a pay scale of Rs.220/- with effect from the date from which he had actually worked in the promotional post. Considering the argument advanced at the Bar, we feel inclined to take the view that the pay of the petitioner as fixed vide Annexure-1 at Rs.220/- with effect from 11.5.1966 and at Rs.230/- with effect from 16.5.1966 ~~but actual cash~~ ^{amount} ~~Amount~~ should be paid to the petitioner as he had physically worked as Inspector of Post Offices from such date. We would further direct that the arrears be calculated and be paid to the petitioner within three months from the date of receipt of a copy of this judgment. and consequential pensionary benefits should be given to the petitioner after calculation within four months thereafter.

5. Thus, the application is allowed leaving the parties to bear their own costs.



B.R. PATEL, VICE CHAIRMAN, 9 agree.

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Member (Judicial)

2.11.88
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Vice Chairman.

Central Administrative Tribunal,
Cuttack Bench.
November 2, 1988/Roy, Sr.P.A.