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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION NO. 96 OF 1987

Date of decision ... February 11, 1988.

Md. Abdul Rashid, Retired Branch Post Master,
son of Md. Abdus Sobhan, Village-Ramachandrapur,
P.O. Bari Kalamatia, Via- Bari Cuttack, Dist-Cuttack.

... Applicant.

Versus

1. Union of India, represented by the Postmaster General, Orissa Circle, Bhubaneswar.
2. Superintendent of Post Offices, Cuttack North Division, Cuttack.

... Respondents.

M/s P.V. Ramdas & B.K. Panda,
Advocates ... For Applicant.

Mr. Tahali Dalai, Addl. Standing
Counsel (Central) ... For Respondents.

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 have been permitted to see the judgment ? Yes .
2. To be referred to the Reporters or not ?
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes .

JUDGMENT

K.P.ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a declaration that he is entitled to his arrear emoluments with effect from the date from which he is reinstated into service.

2. Shortly stated, the case of the applicant is that he served as Extra- Departmental Branch Postmaster of Bari-Ramachandrapur Post Office for about twenty years. On 5.5.1975, the applicant was put off from duty and disciplinary proceeding was initiated against him culminating in his removal on 18.5.1976. An application under Article 226 of the Constitution was filed in the Hon'ble High Court of Orissa praying therein to quash the punishment and it formed subject-matter of O.J.C.No. 1938 of 1980. Later, this case was transferred to this Bench under section 29 of the Administrative Tribunals Act, 1985 and re-numbered as T.A.No. 134 of 1986 (Annexure-1). On 31.10.1986 judgment was delivered in T.A.No.134 of 1986 and we quashed the order of punishment and directed reinstatement of the petitioner to service with effect from the date on which he was removed from service. In these circumstances, the petitioner has come up with this application making a prayer that specific direction should be given to the respondents to pay to the petitioner his arrear emoluments with effect from the date of his removal from service i.e., 18.5.1976.

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3. In their counter, the respondents maintained that under Rule 9(3) of the E.D.A(Conduct and Service)Rules, 1964 , the applicant is not entitled to any back wages and therefore, the case being devoid of merit, it is liable to be dismissed.

4. Mr. Ramdas, learned counsel for the applicant submitted before us that this Bench having directed re-instatement of the applicant into service with effect from 18.5.1976 i.e, the date of removal from service, it should be deemed that the petitioner continues in service from 18.5.1976 .Mr. Ramdas invited our attention to the order passed by the competent authority reinstating the petitioner which runs thus :

" In accordance with the judgment as mentioned above, it is hereby ordered that the said Sri Abdul Rasid, Ex.EDBPM, Ramachandrapur is hereby ordered to be deemed to have been reinstated in service with effect from the date he was removed from service ".

Relying on this, Mr. Ramdas contended that the respondents are bound to pay the petitioner his arrear emoluments with effect from the date on which he was ordered to be removed from service. Mr. Tahali Dalai, learned Additional Standing Counsel (Central) submitted before us that Rule 9(3) creates a bar for payment of the arrear emoluments as it is specifically stated that during put off period, no allowance should be given. We have no dispute with Mr. Dalai on this proposition. There is no prayer made before us to pay to the petitioner his arrear emoluments with effect from the date

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on which he was put off from duty. The only limited prayer is that the petitioner should be entitled to his back wages with effect from the date on which the petitioner was removed from service. Rule 9(3) has no application to cases of this nature because on the very date on which the petitioner is reinstated, the order putting him off from duty automatically lapses. Therefore, we find no merit in the contention advanced by Mr. Dalai that the provisions contained under Rule 9(3) would have any application to the peculiar facts and circumstances of this case. Once we have said that the petitioner should be deemed to have been reinstated into service with effect from 18.5.1976 and that direction given by us not having been set aside by the higher forum, we are ourselves bound by what we stated in our judgment. There cannot be any controversy that reinstatement of a particular employee with effect from a particular date entitles him to back wages because he is deemed to be in service with effect from such date. In such circumstances, we find no merit in the contention of Mr. Dalai, learned Standing Counsel and we would further direct that the petitioner be paid his back wages and other consequential financial benefits from 18.5.1976 till his actual date of superannuation. We hope the arrear emoluments should be paid to the petitioner within three months from the date of receipt of a copy of this judgment.

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

Agreed
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Member (Judicial)
11-2-88

B.R. PATEL, VICE CHAIRMAN,

I agree

B.R. Patel
.....
Vice Chairman.
11-2-88



Central Administrative Tribunal,
Cuttack Bench.
February 11, 1988/Roy, SPA.