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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 119 of 1988

Date of decision 28th March, 1989

1. Sri Rajaya Bosi, S/o Late P. Bosi
aged about 58 years, S.D.O. (P)
Gunupur Sub-Division, Dist. Koraput

... Applicant

-Versus-

1. Union of India represented through its
Post Master General, Orissa, Circle,
Bhubaneswar.
2. Director, Postal Services, Sambalpur Region,
Sambalpur Dist. Sambalpur
3. Senior Superintendent of Post Office,
Koraput, Division, Jeypore, Dist. Koraput

.... Respondents

For the Applicant Mr. R. N. Acharya

For the Respondents ... Mr. A. B. Misra, Senior
Standing Counsel (Central)

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN
AND
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 ? No
 3. Whether Their Lordships wish to see the fair
copy of the judgment ? Yes
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: - J U D G M E N T : -

K.P.ACHARYA, MEMBER(J)

In this application under section 19 of the Administrative Tribunal's Act, 1985, the Petitioner challenges the orders contained in Annexure-1 and 3 namely order passed by the Senior Superintendent of Post offices treating the period of un-authorized absence of the petitioner from 6.4.87 to 11.4.87 (Annexure-1) as dies-non and order passed by the Director Postal service rejecting the representation of the Petitioner and confirming the order contained in Annexure-1.

2. Shortly stated, the case of the Petitioner is that the Petitioner has since retired on superannuation from the post of Supervisor Postal Department of Jeypore (within the district of Koraput). The petitioner applied for 2 days Casual leave to be availed on 3rd April, 1987 and 4th April, 1987 further praying to allow the petitioner to avail public holiday i.e. Sunday on 5th April, 1987. The petitioner was to join on 6th April, 1987. On the said day i.e. on 6th April, 1987 the petitioner filed an application for grant of Earned leave from 6th April, 1987 to 11th April, 1987 and so also for permission to avail holiday (Sunday) i.e. on 12th April, 1987. After filing such application before the Post Master of Jeypore Head Post office (who was immediate superior authority) the petitioner left his head quarter without waiting for permission granted by the Competent authority. The Competent authority took exception to this act of the

petitioner and directed that the period from 6th April to 11th April, 1987 should be treated as un-authorised absence and hence those days should be treated as dies-non so far as the petitioner is concerned. Hence this application with the aforesaid prayer.

3. In their counter, the Opposite parties maintained that every Government servant is bound by certain conduct rules and it was incumbent on the part of the petitioner to wait for permission to be accorded by the competent authority empowered to grant leave and after receipt of such permission the petitioner should have availed the leave as prayed for and not having done so the concerned authority took a liberal view in the case of the petitioner and directed that such period should be treated as unauthorised absence without taking the re-course to disciplinary proceeding. Hence the competent authority has taken a liberal view which should not be unsettled. It is maintained on behalf of the Respondents that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. R. N. Acharya, learned Counsel for the petitioner and Mr. Tahali Dalei, learned Addl. Standing Counsel (Central) at some length. True it is that the rules prescribed that leave should be availed after due permission having been accorded by his authority. There are cases in which emergency situation arises where the Govt. servant has no other alternative but to leave Headquarters in anticipation of permission to be accorded by the competent authority.

The Superintendent of Post Offices and the Director Postal

services who have passed ^{up}impugned orders do not lack in such experiences. As regards the allegations against the petitioner that he did not submit his application to the Senior Superintendent of Post Offices who was competent to grant leave, we would say that non filing of the application before the immediate Superior authority to be forwarded through him would entail the petitioner to the disciplinary proceeding. Every Govt. servant has to send his application through the immediate superior authority and admittedly the Postmaster being the immediate Superior authority of the petitioner, the leave application is bound to be submitted through the Postmaster. We are of opinion that the Petitioner is required to file the application before Post master who in ordinary course would forward the same to the concerned authority. Keeping in view that the petitioner has since retired on superannuation and urgent necessary work must have prompted the petitioner to leave Headquarters in the absence of the permission of the higher authority, we would direct that the leave due to the petitioner should be granted in his favour for the period from 6.4.87 to 12.4.87. If any amount is due to the petitioner it should be paid to him within two months for the date of receipt of a copy of this judgment.

5.5. Hence we quash the Annexures-1 and 3 and this application stands allowed leaving the parties to bear the own costs.

B.R. PATEL, VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench
28th March, 1989/Mohapatra



MEMBER (JUDICIAL)

VICE-CHAIRMAN