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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.209 of 1988.

Date of decision : September 22, 1988.

Sri Lambodar Sarangi, aged about
52 years, son of late Ladu Kishore
Sarangi, Ex-B.P.M., At/P.O. Alasuguma,
Via- Jagannath Prasad, District-
Ganjam. ...

Applicant.

Versus

1. Union of India, represented through
the Postmaster General, Orissa Circle,
Bhubaneswar-751001, District-Puri.
2. Superintendent of Post Offices,
Berhampur (Gm) West Division,
Berhampur (Gm), Pin-760 004.
3. Superintendent of Post Offices,
Aska Division, Aska, District-Ganjam.

... Respondents.

For the applicant ... M/s. P.V. Ramdas,
B.K. Panda, Advocates.

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

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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 ? Yes.
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 applicant prays for restoring him to service as Extra-departmental Branch Post Master, Alasuguma Branch Post Office situated within the district of Ganjam.

2. Shortly stated, the case of the applicant is that he was appointed as Extra-departmental Branch Postmaster of Alasuguma Branch Post Office (Bhanjanagar Sub-division) within the district of Ganjam. The applicant was appointed as such on 25.6.1964 and on 12.5.1984 the Branch Post Office was gutted to fire and a report to this effect was sent to the Superintendent of Post Offices on 14.5.1984. The Superintendent of Post Offices visited the site on 17.8.1984 and on the very same day an application was filed by the applicant before the Superintendent of Post Offices to allow him to retire from service on health grounds. The application is said to have been allowed by virtue of the fact that the petitioner has handed over the charge of the said Post Office to a person on the orders of the competent authority. Now, this application has been filed by the petitioner to order reinstatement of the applicant into service as Branch Post Master of Alasuguma.

Alternatively, it is prayed that the applicant should be given his gratuity money as per Rules, if the prayer of the applicant for reinstatement is not allowed.

3. In their counter, the respondents maintained that this act of voluntary retirement having taken place as a voluntary act of the applicant and by virtue of the fact that the applicant was asked to hand over charge which he did, amounts to acceptance of the application for voluntary retirement and as such no further scope is left to the applicant to reagitate the matter and pray for reinstatement. Thus, the prayer of the applicant being devoid of merit, is liable to be dismissed.

4. We have heard Mr.P.V.Ramdas, learned counsel for the applicant and Mr.A.B.Mishra, learned Senior Standing Counsel (Central) at some length. Mr.Ramdas submitted before us that when the Superintendent of Post Offices visited the spot on 17.8.1984, he had exercised undue pressure and influence over the applicant and managed to obtain this application which was ~~most~~ against the wishes of the applicant and the applicant was forced to become subservient to the wishes of the Superintendent of Post Offices which resulted in filing of such an application. Hence, on this ground alone, this Bench should direct reinstatement of the applicant. This contention of Mr.Ramdas was stiffly opposed by learned Senior Standing Counsel (Central) on the ground that there was no evidence to the above effect. After having heard learned counsel for both sides, we are of opinion that there is substantial force in the aforesaid contention of learned Senior Standing Counsel (Central) because there is no iota of evidence before us to indicate that the Superintendent of Post Offices had ever exercised any

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undue influence, coercion etc. Taking into consideration the broad probabilities of the case, in case the petitioner was aware of any undue influence or coercion to have been exercised by the Superintendent of Post Offices, in all natural sequence of human conduct it is expected of the petitioner within a very short period from 17.8.1984, ^{he} would have filed an application stating all these facts. The silence of the petitioner on this matter till the date of filing of the application coupled with the fact that the petitioner had handed over charge of the Office to the person nominated by the competent authority persuades us to come to an irresistible conclusion that this is an afterthought of the petitioner and therefore we are unable to place any reliance on this part of the case put forward by the petitioner. Hence, we find no merit ⁱⁿ this part of the case of the petitioner.

5. Next coming to the gratuity to be paid to the petitioner, Mr. Ramdas invited our attention to Annexure-R/2 which is an application filed by the petitioner for payment of gratuity. This step has been taken by the petitioner because of the directions given by the Director General, Posts & Telegraphs in his different communications made in this regard. From Swamy's compilation of Service Rules for Extra-Departmental Staff in Postal Department against paragraph 4 at page 7 it is stated that ED Agents as defined in P & T Extra-Departmental Agents (Conduct and Service) Rules, 1964, whose services are terminated otherwise than

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(i) for unsatisfactory work or (ii) as a measure of disciplinary action or (iii) in consequence of their being appointed in a regular post under the P & T Department, may be sanctioned monetary grants termed as 'Gratuity' provided that they have put in not less than fifteen years of continuous satisfactory service as ED Agents. In this connection, the following letters of the Director General, Posts & Telegraphs may need to be referred to :

" D.G., P&T., Letter No. 43-48/64-Pen., dated 16.1.68; No-60-330/70-Pen., dated 20.8.71; No. 40-238/73-Pen., dated 6-2-74, No. 40-48/78, dated 6-10-79; No. 43-23/80-Pen., dated 20.2.80 and 40-58/78-Pen., dated 14-8-80."



Admittedly, the petitioner has put in more than fifteen years of satisfactory service as there is nothing against him pointed out by the Department. In view of the directions contained in the above mentioned letters of the Director General, Posts & Telegraphs we would direct that the petitioner's gratuity money be calculated and paid as per Rules, and laid within three months from the date of receipt of a copy of the judgment.

6. Thus, this application stands partly allowed leaving the parties to bear their own costs.

*leg. ass. m/s
22.9.88.*
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

g agree.

*Ansul
22.9.88.*
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Vice-Chairman