

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.290 of 1988

Date of decision : December 22,1988.

Baishnab Charan Nanda, son of late
B.B.Nanda, At present working as
E.D.B.P.M., At/P.O.Sarakantara,
Bhubaneswar-2. ...

Applicant.

Versus

1. Union of India, represented by the
Postmaster General, Orissa,
Bhubaneswar, At/P.O.Bhubaneswar,
Dist-Puri.
2. Senior Superintendent of Post Offices,
Bhubaneswar Division, Bhubaneswar,
Dist.Puri, Pin.-751 001.

... Respondents.

For the applicant ... M/s.Dhuliram Patnaik,
R.N.Nayak, Advocates.

For the respondents ... Mr.Tahali Dalai, Addl. Standing
Counsel (Central)
Mr.A.B.Mishra, Sr.S.C. (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.
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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 Tribunals Act, 1985, the applicant prays to command the respondents to give him subsistence allowance for the period during which he has been put off from duty.

2. Shortly stated, the case of the applicant is that he was appointed as an Extra-Departmental Branch PostMaster of Sarkantara Branch Post Office under Bhubaneswar Sub-Division in the district of Puri on 6.12.1968. The applicant was put off from duty with effect from 20.9.1974 till 15.12.1986 on a contemplated proceeding. The charges were framed against the applicant and ultimately he was removed from service. The applicant filed an application under Article 226 of the Constitution of India before the Hon'ble High Court of Orissa which came on transfer to this Bench and renumbered as T.A.No.65 of 1986. The judgment in T.A.65 of 1986 was delivered on 31.7.1986, reinstating the applicant and entitling him to all his back pay since 20.9.1974. After reinstatement another proceeding was initiated against the applicant with fresh charges and the applicant was put off from duty. Now, in this application the applicant claims for subsistence allowance during the period he has been ^{not} put off from duty. _{him}

3. In their counter, the respondents maintained that legally the applicant is not entitled to any subsistence allowance during the period of put off from duty.

4. We have heard Mr. Dhuliram Patnaik, learned counsel

for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) at some length. Mr. Patnaik relied upon Rule 9 (3) of the Extra-Departmental Agents (Conduct and Service) Rules. Rule 9 (3) runs thus :

" 9. (3) An employee shall not be entitled to any allowance for the period for which he is kept off duty under this rule. "

Mr. Patnaik submitted that this rule is against all cannons of justice, equity and fair play especially when the Extra-Departmental Agents have been declared as Civil servants. After hearing learned counsel for both sides, we are of opinion that the aforesaid contention of Mr. Patnaik deserves no merit because the Extra-Departmental agents have been declared as Civil servants only for the purpose of protection guaranteed under Article 311 of the Constitution. Besides that they have no other advantages to be taken as civil servants. In such circumstances, we are of opinion that the applicant is not entitled to any allowance during the period he was put off from duty and therefore, there being no merit in this case, it stands dismissed, leaving the parties to bear their own costs.

5. Before we part with this case, we must observe that the trial of the departmental proceeding would commence within one month from the date of receipt of a copy of this judgment and it should be completed within 90 (ninety) days from the date of commencement.

B. R. PATEL, VICE-CHAIRMAN,

I agree.

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Member (Judicial)

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Vice-Chairman

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
December 22, 1988/Saranghi.

