

6

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.234 of 1989.

Date of decision : September 20,1989.

All the Postal Employees working under the direct control of the Senior Superintendent of Post Offices, Koraput Division in the district of Koraput, represented by Shri Dayanidhi Mohanty, aged about 45 years son of Sri Dhaneswar Mohanty, Secretary of N.F.P.E., All India Postal Employees Union, Divisional Branch At.Jeypore (Koraput)-764001. ...

Applicant.

Versus

1. Post Master General, Orissa Circle, Bhubaneswar, At/P.O.Bhubaneswar, Dist-Puri.
2. Senior Superintendent of Post Offices, Koraput Division, At/P.O.Jeypore, Dist. Koraput, Pin-764001.
3. Union of India, represented by Secretary to the Government of India, Ministry of Communication, New Delhi.
4. Director General of Post, Dak Bhawan, Sansad Marg, New Delhi.

...

Respondents.

For the applicant ... Mr.Pradipta Mohanty,
Advocate.

For the respondents ... Mr.Tahali Dalai,
Additional Standing Counsel (Central)

C O R A M :

THE HON'BLE MR.N.SENGUPTA, 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 His Lordship wishes to see the fair copy of the judgment ? Yes.
- _____

J U D G M E N T

N.SENGUPTA, MEMBER (J) This application has been made on behalf of the Postal employees working under the control of Senior Superintendent of Post Offices, Koraput Division in the district of Koraput represented by their Secretary, Shri Dayanidhi Mohanty.

2. The relief that the employees claim is the grant of Tribal Area Allowance. The 4th Central Pay Commission in their report recommended for payment of allowance for those persons who would be working in tribal areas and the Government of India substantially accepted that recommendation and accordingly ^{by} different Departments including the Postal Department circulars were issued. The Postmaster General, Orissa Circle circulated Government of India, Ministry of Finance letter No.20022/7/87-SII(B) dated 1.12.1987 which lays down the principles and the quantum of allowance to be paid to employees working in tribal areas. According to the circular issued, in Koraput 9 places were identified as tribal areas. From the copy of the circular, it would be found that it was decided that a person who had completed four years of continuous service in one or more tribal areas by 1.3.1987 would be entitled to the allowance and if any arrears are to be paid to persons that is to be calculated. The Senior Superintendent of Post Offices, Koraput Division, Jeypore entertained some doubt and clarification ~~was~~ sought for. In reply to that from the Office of the Post Master General, Orissa, it was stated that keeping in view the conditions laid down in para 2(i) to (viii) and para 3 and 4 of the Ministry of Finance letter quoted above persons would be eligible to such allowance if they satisfy the conditions, but however, payment

Handwritten signature and date:
20/9/87

8

of arrears were not to be made till some further clarifications are received from the Directorate of Posts. This can be found from Annexure-3 which is dated 10.5.1988. It is further averred by the applicant employees Union that thereafter Annexure-4 was received from the Department of Posts (Ministry of Communication) and payment of tribal area allowance was to be made to the employees satisfying the conditions laid down in the original letter. But that has not been given effect to nor has any of the employees been paid the tribal area allowance.

3. The respondents in their counter have not seriously disputed ~~against~~ all the allegations made in the application but their contention is that the applicant employees union should not have rushed to this Tribunal without making a representation to the authorities concerned for payment of the allowance or at least without having waited for some time to sort out the case of the individuals who are to be found entitled to such allowance. They have also issued a subsequent circular dated 10.5.1989 by which the period of 4 years has been reduced to one year and this circular is to take effect from 10.5.1989.

4. Shri T. Dalai, learned Additional Standing Counsel (Central) has stuck to the contention raised in the counter and he has further urged that the application should be dismissed being premature and not having satisfied the conditions laid down in Section 20 of the Administrative Tribunals Act, 1985. On the other hand, Mr. Mohanty, learned counsel for the applicant employees union, has contended that since circulars had been issued and it was the duty of the concerned authorities to make payment in accordance with those circulars and since they have not discharged

Keen Encl 2
20/9

their duties, they cannot take refuse under the plea that no representation for payment was made which in fact was not necessary to be made. In other words, the contention of Mr. Mohanty is that a Tribunal can give a direction to the Government authority to pay what ^{it} is bound to pay and representation unless it is specifically provided for under any service rule, is not necessary. Having heard counsels for both sides, it appears that the proper course would be to direct employees either individually or through their union to make a representation to the concerned authority for making payment of tribal area allowance. The applicant employees union is further directed to set forth therein the details about their service in the tribal areas, and such representation should be disposed of by the Department within three months from the date of representation. Such a course becomes necessary because no two individual, dues may be ^{- The same -} nor any two might have remained for the said period in the tribal areas. This is also made clear that in view of the circular at Annexures-1 and 4, the period to be reckoned would be completion of four years in a tribal area by 1.3.1987, for the purpose of calculation of arrears and four years continuous service in tribal areas for monthly payment for persons who had not completed four years of continuous service in the areas by 1.3.1987 but subsequently completed, Annexure R-1 would be applied. w.e.f. 10.5.89.

5. With these observations, the application is disposed of, No costs.

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 20, 1989/Sarangal.



[Signature]
.....
Member (Judicial)