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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO: 434 OF 1990

Date of decision: 12th September, 1991.

Lingaraj Pradhan Applicant

Versus

Union of India and others Respondents

For the applicant : M/s. P.V.Ramdas, B.K.Panda,
D.N.Mohapatra, Advocates.

For the Respondents : Mr. A.K.Misra, standing
Counsel (CAT).

CORAM:

THE HONOURABLE MR. K.P.ACHARYA, VICE CHAIRMAN

- 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 Lordships wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P.ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the order passed on 21st February, 1986 by the Director Postal Service Sambalpur Region contained in Annexure-A/1 holding that the Petitioner is entitled to the deputation allowance at 10% of his basic pay and granting Upper Division Clerk scale of pay from 16.9.1985 to 4.10.1985, as such order is illegal, unjust, improper and inoperative.

2. Shortly stated, the case of the Petitioner is that he was initially recruited as a Lower Division Clerk (LDC) in the Postal Department and was posted in the Division Office of Sambalpur Region. On 16th September, 1985 by virtue of the orders passed by the Competent Authority, the Petitioner held the post of an Upper Division Clerk in the Regional Office and worked as such till 23rd February, 1986. Vide-Annexure-A/1 dated 21st February, 1986, the Director Postal Services passed an order entitling the petitioner to the basic pay etc. of an UDC from 16.9.1985 to 4th October, 1985 and thereafter the Petitioner by virtue of the same order was made entitled to 10% of his

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basic pay as L.D.C. as deputation allowance which is under challenge. Hence this application has been filed with the aforesaid prayer.

3. In their counter the Opposite Parties maintain that since there was dearth of employees to discharge the duties of an UDC the Petitioner was asked to officiate in the cadre of UDC and subsequently, his officiation was ordered on the basis of deputation and hence deputation allowance has been granted in favour of the petitioner. In such circumstances, it is maintained by the Opposite Parties that the case being devoid of merit, is liable to be dismissed.

4. I have heard Mr. P.V. Ramdas, learned Counsel for the Petitioner and Mr. A.K. Misra learned Standing Counsel (CAT) for the Central Government at a considerable length.

5. Mr. A.K. Misra learned Standing Counsel, on the basis of the averment & finding place in the counter, submitted that the petitioner is being paid deputation allowance for the services he is rendering in the Post of UDC as he has been asked to discharge the duties of an UDC on officiating basis due to dearth of hands to be given regular promotion and more so the

petitioner did not then fulfil the eligibility criteria for being ^{regularly} promoted to the Post of UDC.

On the other hand Mr. Ramdas contended that once a person has been given a post of higher responsibility and he has been discharging such duty, it is incumbent on the part of the concerned authority to pay to the petitioner the scale prescribed for the higher post on the basis of the wholesome and established principle of 'equal pay for equal work'.

6. I have given my anxious consideration to the arguments advanced at the Bar. Mr. A.K. Misra learned Standing Counsel did not rightly and fairly dispute the wholesome and long established principle laid down in a bed roll of the judgments of the Apex Court namely 'equal pay for equal work'. Admittedly, the Petitioner has been discharging the duties of an UDC from 16.9.1985 to 23.4.1986 and further admitted fact is that the post of an UDC carries higher responsibility being higher in status. There was no dispute presented before me that there are several other incumbents who are discharging the same nature of duties like that of the Petitioner in the Post of an UDC though they are regular incumbents. Therefore, in my opinion the principle of 'equal pay for equal work'

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applies in full force to the case of the present petitioner. Of course Mr. Misra submitted that once the petitioner has received the deputation allowance it is no longer open to him to ventilate his grievance regarding payment of the scale of pay prescribed for an UDC. At the cost of the repetition I may say that since the petitioner is admittedly discharging the duties of a higher post carrying higher responsibility either on officiating basis or as an adhoc ~~appointee~~, he is definitely entitled to the pay scale prescribed for the higher post. Therefore, it is directed that the petitioner be paid the amount due to him in the pay scale of an UDC from 5.10.1985 to 23.2.1986 as admittedly the petitioner has been paid the UDC scale of pay from 16.9.1985 to 4.10.1985, less the deputation allowance drawn by him, with consequential benefits namely fixation of pay according to Rules. The amount due to the petitioner be calculated and paid to him within sixty days from the date of receipt of a copy of this judgment.

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



Leisure
12.9.91
VICE CHAIRMAN