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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 448 of 1990

Date of decision: 4th November, 1992

Dr. Bhaskar Chandra Mishra Applicant

Versus

Union of India and others Respondents

For the Applicant : M/s M.R.Panda, S.P.Sahoo,
D.K.Pani, Advocates.

For the respondents : Mr. Aswini Kumar Misra,
Senior Standing Counsel
(Central)

CORAM:

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

THE HONOURABLE MR. K.J.RAMAN, MEMBER (ADMN.)

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not?
3. Whether Their Lordships wish to see the fair copy of judgment? Yes.

JUDGMENT

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K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to fix the appropriate scale of pay and the amount due may be disbursed to the Petitioner and a direction to the Opposite Parties to consider the case of the Petitioner for promotion with effect from 1984.

2. Shortly stated the case of the Petitioner is that he joined ~~in~~ ^U the Regional Research Laboratory as Senior Scientific Assistant on 22nd December, 1971. A proceeding was drawn up against him and his case was not considered for promotion. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. M.R.Panda learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned Standing Counsel(Central) for the Opposite Parties.

5. Mr. Panda learned counsel appearing for the Petitioner submitted that as per the averment finding place in para 6.11 of the counter, the petitioner is entitled to the undisbursed salary. Averment in para 6.11 runs as follows:

" It was true that action was not taken by the office to fix his pay and pay him duty pay for the period of duty rendered by him. It is also a fact that pension contribution due from Shri Mishra was not recovered. If Pension contribution had been recovered, he

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would have received only a nominal amount. It cannot be accepted that because his salary was not paid to him, he was forced to proceed on leave. Furthermore, absence from duty cannot be a remedy for his financial difficulties".

It was submitted by Mr. Aswini Kumar Mishra that the unauthorised absence of the Petitioner has been dealt by the competent authority and a certain period has been treated as 'dise non'. Therefore, the Petitioner is not entitled to any leave salary. Undoubtedly, the period which has been treated as 'dise non', the petitioner is not entitled to any emoluments but the period which has been regularised granting leave to the petitioner should be taken into consideration by the Opposite Parties keeping in view the averments, quoted above, and in the case the petitioner has not received salary, for the said period, it should be disbursed in his favour. We hope and trust it should be disbursed within 60 days from the date of receipt of a copy of the judgment.

6. As regards the other reliefs claimed (stated above) there is no necessity of issuing any further direction because such direction has already been given in the judgment passed in Original Application No. 245 of 1990.

7. Thus, the application is accordingly disposed of. No costs.

W.Mohanty
MEMBER (ADMINISTRATIVE)

Lalji
4-XI-92
VICE CHAIRMAN

Central Admn. Tribunal
Cuttack Bench, Cuttack
K. Mohanty/4.11.92

