

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.126 of 1991.

Date of decision . July 14, 1992.

Jagadal Bag ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.A.C.Das,
S. Mohanti, Advocates.

For the respondents ... Mr. Aswini Kumar Misra,
Sr. Standing Counsel (CAT)

C O R A M :

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

A N D

THE HONOURABLE MR. M. Y. PRIOLKAR, MEMBER (ADMN.)

100

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 the judgment ? Yes.

100

JUDGMENT

K.P. ACHARYA, V.C., The crux of the prayer of the applicant is that solatium should be paid to the applicant because of the long time during which he has been ~~under~~ ^{languishing} put off from duty and such solatium should be paid because the order putting the applicant off duty is ^a punitive one.

2. Shortly stated, the case of the applicant is that while he was functioning as Extra-Departmental Mail Carrier of Mahalinga Branch Post Office in account with Borda Sub Office, The applicant is said to have wilfully remained unauthorisedly absent and therefore, he had violated Rule 17 of the P & T Extra-Departmental Agents (Conduct and service) Rules, 1964. On several occasions the applicant having been found to be absent, unauthorisedly a set of charges were delivered to the applicant which is dated 29.9.1989. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the order of suspension was justified in the eye of law and there being no provision contained in the relevant rules, neither solatium nor suspension allowance could be granted in favour of the applicant. It is further maintained by the Respondents that the delay in disposal of the proceeding is due to the absence of the applicant.

4. We have heard Mr. A.C. Das, learned counsel for the applicant and Mr. Aswini Kumar Misra, learned Senior Standing Counsel (CAT) for the respondents.

5. We are unable to accept the contention of Mr. Das

that the applicant is entitled to solatium or suspension allowance because there is no such provision in the relevant rules. Ofcourse, Mr.Das submitted that in compliance with the principles of natural justice and exercising our inherent powers we should grant his prayer. Section 151 of the Code of Civil Procedure has no application ~~or~~ ^{and} does not come within the purview of Administrative Tribunals Act, 1985. We are not in agreement with Mr.Das that the principles of natural justice could be stretched to the extent of violation of prescribed rules ^{by the parties} and to grant decree in favour of the affected party when there is no suitable provision entitling the Tribunal to give benefit to the affected party. Hence, the aforesaid contention of Mr.Das is overruled.

6. While we ^{expressing} express our discontentment for the non-disposal of the departmental proceeding, Mr.A.K.Misra placed certain assertions in the counter to indicate that due to the absence of the applicant there has been delay in disposal of the proceeding. At present we do not like to enter upon a roaving enquiry as to who is at fault for the delay in disposal of the proceeding but the fact remains that due to the laches of either/parties the proceeding has not been disposed of. We would therefore, direct that the proceeding be finally disposed of within 120 days from the date of receipt of a copy of this judgment provided that the applicant cooperates. We further direct that the Enquiring Officer must maintain a regular ordersheet in which he should specifically mention regarding the presence or absence of the applicant and in case the applicant remains absent it should also be mentioned

as to whether any reasons have been assigned by him or adjournment has been sought for. Those days on which the proceeding is adjourned at the instance of the applicant such number of ~~day~~ days shall be added to the period of 120 days.

7. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

MEMBER (ADMINISTRATIVE)

VICE-CHAIRMAN

Central Administrative
Cuttack Bench, Cuttack.
July 14, 1992/Saran

