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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application Nos.242 & 277 of 1991.

Date of decision : September 26, 1991.

In O.A.242 of 1991 Pradeep Kumar Acharya ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... Mr. R. Ch. Rout, Advocate.

For the respondents ... Mr. U. C. Panda, Addl. S.C. (C)
Mr. A. K. Misra,
Sr. Standing Counsel (CAT)

In O.A.277 of 1991 Krushna Mohan Patra ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s. S. R. Patnaik,
U. S. Patnaik, Advocates.

For the respondents ... Mr. A. K. Misra,
Sr. Standing Counsel (CAT)

C O R A M S:

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

A N D

THE HONOURABLE MR. I. P. GUPTA, 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 ? 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, V.C., In view of the peculiar facts and circumstances of the case, this common judgment would govern both the cases.

2. In O.A.277 of 1991 the applicant Shri Krushna Mohan Patra was working as an Extra-Departmental Branch Post Master of Khairapadar Branch Post Office and in connection with a contemplated proceeding Krushna Mohan was put off from duty with effect from 15.3.1988. A disciplinary

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proceeding was initiated and ultimately Krushna Mohan was ordered to be removed from service. The matter was carried in appeal and by order dated 23.1.1991 the appellate authority set aside the imposition of penalty over Krushna Mohan and directed his reinstatement.

3. During the period of put off from duty and removal from service of Krushna Mohan, an interim arrangement was felt necessary to run the said Post Office and therefore, the applicant in O.A.242 of 1991 namely, Pradeep Kumar Acharya was asked to carry on the work with effect from 23.11.1989 and since then Pradeep Kumar Acharya is working in the said Post Office. After orders were passed by the appellate authority in favour of Krushna Mohan (the applicant in O.A.277 of 1991), when the departmental authorities wanted to reinstate the applicant in O.A.277 of 1991, Krushna Mohan, Pradeep Kumar Acharya came up with an application under Section 19 of the Administrative Tribunals Act, 1985 praying to give a direction to the respondents to treat him as a regularly appointed Extra-Departmental Branch Post Master, Khairpadar Branch Post Office. Vide order dated 7.8.1991 it was ordered that notice be issued to the respondents for admission and hearing and it was further ordered that the status quo as on date be continue. By virtue of this interim order the applicant in O.A.242 of 1991, Shri Pradeep Kumar Acharya is continuing. Since Pradeep Kumar Acharya obtained this interim order, Krushna Mohan came up with the application forming subject matter of O.A.277 of 1991 which was placed for admission on 23.8.1991 and it was also ordered that notice be issued

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to the respondents on the question of admission and hearing. In these circumstances, both the cases mentioned above, have come up for admission and hearing today.

4. We have heard Mr. R. C. Rout, learned counsel for the applicant in O.A. 242 of 1991 and Mr. U. S. Patnaik, learned counsel for the applicant in O.A. 277 of 1991 and Mr. A. K. Misra, learned Senior Standing Counsel (CAT) for respondents in both the cases.

5. After hearing learned counsel for the parties in both the cases, we are of opinion that the appellate order passed in favour of Shri Krushna Mohan Patra quashing his punishment and directing his reinstatement must have to be respected. The acquittal recorded in favour of the applicant in O.A. 277 of 1991, Shri Krushna Mohan Patra still stands good and has to be implemented. We cannot lose sight of the fact that Pradeep Kumar Acharya was temporarily appointed to act in the place of Krushna Mohan during the period when he (Shri Krushna Mohan Patra) was put off from duty and removed from service. No right is vested with Pradeep Kumar Acharya to continue in the post and by no stretch of imagination we can give a direction to the respondents to give Pradeep Kumar Acharya a regular appointment in the said Post Office. In our opinion, the case set up by Pradeep Kumar Acharya is devoid of merit and is certainly liable to be dismissed. Hence, we do hereby dismiss the application forming subject matter of O.A. 242 of 1991 and necessarily the interim order passed on 7.8.1991 stands vacated.

So far as the Original application No. 277 of 1991 is

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concerned it stands allowed with a direction that Krushna Mohan Patra should be immediately reinstated to the post in question as directed by the appellate authority and confirmed by us.

6. At a particular stage this Bench was of opinion that Rule 9- stood as a bar for granting arrear financial benefits to an Extra-Departmental Branch Post Master during his put off period and the period during which he was removed from service. But later this Bench took a different view on the basis of the views expressed by the Bangalore Bench that Rule 9 does not create a bar for payment of the arrear financial benefits to an Extra-Departmental Branch Post Master who had been put off from duty and removed from service. Following the dictum, very recently we have also allowed the claim of some of the applicants on the above account but the present case stands on a different footing. From the appellate order we find that the applicant has not been exonerated of the charges - rather there has been a reduction of the penalty to the extent of giving a warning to the applicant for his lapses. Therefore, in such circumstances, the applicant is not entitled to the arrear emoluments as prayed for by him. That part of his prayer stands dismissed. There would be no order as to costs.

J. Palma
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Member (Admn.)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
September 26, 1991/Sarangi.



K. Gopalakrishnan
.....
26.9.91.
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Vice-Chairman