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Central Administrative Tribunal
Cuttack Bench, Cuttack

Original Application No. 244 of 1991

Date of decision: January 19, 1993

Haribash Mallik Petitioner

Versus

UNION OF INDIA AND OTHERS... Opp. Parties.

For the Petitioner : M/s Devanand Misra,
Deepak Misra,
R.N.Naik, A.Deo,
B.S.Tripathy,
P.Panda, Advocates.

For the Opp. Parties : M/s. Aswini K. Misra,
Sr. St. Counsel (Central)

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CORAM:

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

AND

THE HONOURABLE MR. S.R. ADIGE, MEMBER (ADMINISTRATIVE)

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

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JUDGMENT

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the Opposite Parties to pay full backwages to the petitioner and other service benefits during the period when the petitioner was put off from duty.

2. Shortly stated the case of the petitioner is that while the petitioner was working as Extra Departmental Branch Postmaster of Sandi Branch Post Office, the services of the petitioner was terminated resulting from a disciplinary proceeding. This order was challenged in Original Application No. 240 of 1988. Vide judgment dated 19th January, 1990 contained in Annexure 1 the application was allowed and the punishment was quashed with a direction ^{that} and necessary consequences according to the rules applicable would follow. The petitioner ^{is} said to have been made a representation to the competent authority for payment of backwages from the date on which he was put off from duty till the date of his reinstatement. Such request not having been acceded to, this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that Rule 9 creates a bar for payment of backwages and therefore rightly the petitioner's claim was rejected and the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. R.N.Naik learned counsel for the Petitioner and Mr. Aswini Kumar Misra, learned Senior

Standing Counsel (Central). At the certain point of time Cuttack Bench was of opinion that E.D. Officials are not entitled to back wages in view of the bar created under Rule 9. But later Madras Bench Hyderabad Bench and Keral High Court held that E.D. Officials are entitled to back wages for the period during which such E.D. Official was put off from duty or was made to remain out of service and then reinstated. Thereafter this Bench in order to avoid conflicting view with Co-ordinate Benches, and the Keral High Court held that those E.D. officials are entitled to back wages from the date on which such Extra Departmental Branch Post master was put off from duty till the date of reinstatement. Those judgments have been carried to the Hon'ble Supreme Court and vide SLP No. 6923 of 1992 the Hon'ble Supreme Court had stayed operation of such judgment passed in O.A. 297 of 1990. In such circumstances we cannot allow this application. Every son of the soil is bound by the judgment of the Hon'ble Supreme Court. Therefore, we would direct that the Petitioner and the concerned Postal Authorities may await the decision of the Hon'ble Supreme Court. In case Hon'ble Supreme Court holds that the E.D.B.P.Ms similarly circumstanced are entitled to backwages then the petitioner may renew his application and the competent authority should dispose of the representation in the light of the judgment passed by the Hon'ble Supreme Court. In case the Hon'ble Supreme Court holds that such EDBPMs are not entitled to backwages every Benches including that of this Bench and parties to this case are bound by

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the judgment of the Hon'ble Supreme Court and therefore the prayer of the petitioner **now** cannot be allowed. Liberty is given to the petitioner to approach this Bench if he receives an adverse order from **the** competent authority.

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

Trifolge 19.1.93
MEMBER (ADMINISTRATIVE)

19.1.93
VICE CHAIRMAN

Central Admin strative Tribunal,
Cuttack Bench, Cuttack/KN. Mohanty,

19.1.1993.

