

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.284 of 1991

Date of Decision: 20.1.1993

Sribachha Kumar Samantray Applicant

Versus

Union of India & Others Respondents

For the applicant M/s.B.P.Tripathy,
G.N.Padhi,
S.K.Mohanty,
Biswajit Perida
Advocates

For the respondents Mr. Aswini Kumar Mishra,
Standing Counsel
(Central Government)

C O R A M:

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

AND

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

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1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? NO
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes

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JUDGMENT

MR. S. R. ADIGE, MEMBER (ADMINISTRATIVE), In this application under Section 19 the Administrative Tribunals Act, 1985, the petitioner prays for a direction to the opposite parties to pay backwages to the petitioner.

2. Shortly stated the case of the petitioner is that he was appointed as Extra Departmental Delivery Agent of Lendu Post Office on 17.3.1986. On 29.9.1987, the petitioner was put off from duty and a departmental enquiry was initiated against him. Ultimately the petitioner was reinstated on 17.8.1990. The petitioner prays for grant of backwages during the period the petitioner was put off from duty.

3. In their counter the opposite parties maintain that the petitioner was found guilty of the charges and the disciplinary authority took a sympathetic view by not inflicting any penalty over the petitioner **expecting** that he would cause improvement to himself. It is further maintained that under Rule-9 the petitioner is not entitled to backwages.

4. We have heard Mr. Biswajit Parida, learned counsel for the petitioner and Mr. Aswini Kumar Mishra, learned Standing Counsel.

5. Mr. Parida relied upon some judgments of this Bench in which backwages have been ordered to be paid to the people similarly circumstanced, and therefore Mr. Parida urged that a different view should not be taken so far as the present case is concerned. At one point of time this Bench had held that rule-9 creates a bar for grant of backwages, but later in the case of P.N. Rosama vs. Inspector of Post Offices Muvattupuzha and others reported in 1988 (7) Administrative

Tribunals Case 838 the Madras Bench held that Rule-9 cannot create a bar, and the E.D. officials who have been put off from duty are entitled to backwages. The Bangalore Bench also took the very same view. It is also noticed that the Kerla High Court in the case of K.Saradama vs. Sr. Superintendent of Post Offices took exactly the same view. Therefore following all these judgments the Cuttack Bench held that E.D. Officials similarly circumstanced are entitled to backwages. The latest judgment of the Cuttack Bench holding that the E.D. Officials are entitled to backwages has been carried to the Hon'ble Supreme Court forming subject matter of S.L.P. No. dated : and in connection with the S.L.Petition Their Lordships have been pleased to stay operation of the judgment. In such a situation we do not feel inclined to direct the opposite parties in this case to pay backwages to the petitioner. Every son of the soil is bound by the dictum laid down by the Supreme Court. In case the Supreme Court holds that E.D. Officials put off from duty are entitled to backwages during this period, the petitioner may renew his request and the competent authority of the Postal Department would pass necessary orders according to law in the light of the judgment passed by the Supreme Court. Thus the application is accordingly disposed of leaving the parties to bear their own cost.

Legge 20.1.93
 VICE-CHAIRMAN

Relige 20.1.93
 MEMBER (ADMINISTRATIVE)

Central Administrative Tribunal
 Cuttack Bench Cuttack
 dated the 20.1.93 / K. Sahoo

