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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 490 of 1991

Date of decision: November 5, 1993

Pranabandhu Mallik	...	Applicant
Versus		
Union of India and others	...	Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *Ans*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? *Ans*

129/1/mb
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

05 Nov 93

Ans 5/11/93
(K. P. ACHARYA)
VICE- CHAIRMAN

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Union of India and others	...	Respondents
For the Applicant	M/s. Devanand Mishra, Deepak Misra, R.N.Naik, A.Deo, B.S.Tripathy, P.Panda, Advocates
For the Respondents	Mr. Aswini Kumar Mishra, Standing Counsel (Central)

C O R A M :-

THE HONOURABLE MR.K.P.ACHARYA, VICE- CHAIRMAN
A N D
THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN.)

JUDGMENT

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for quashing of Annexures 1 and 2.

2. Shortly stated the case of the petitioner is that while he was working as a Teacher in Manibhadra M.E. School he was also working as Extra Departmental Branch Post Master of Talakurunia Branch Post Office under the Opposite Party No.4 i.e. the Postmaster Balasore Head office.

The Petitioner was drawing Dearness allowance as an employee of the Postal Department and as a School Teacher. Therefore, Vide Annexure-1 dated 19th November, 1991, the petitioner was directed to refund Rs.5108/-.

Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the petitioner cannot be permitted to derive double benefit by drawing dearness allowance from the School and also from the Postal Department. Hence rightly the petitioner was asked to refund the amount drawn by him towards dearness allowance. Further more it is maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra learned counsel appearing for the petitioner and Mr. Aswini Kumar Misra learned Standing Counsel (Central).

5. The undisputed position is that the petitioner was drawing D.A. both from the Postal Department and from the School. This is not permissible. A particular employee under Central Government cannot derive double benefit by drawing dearness allowance from the State Government. Therefore, rightly the petitioner was asked by the competent authority to refund Rs.5,108/- We find no illegality to have been committed by the Postal authorities. Therefore, it is directed that Rs.5108/- be realised from the Petitioner. The stay order stands

vacated.

6. Before we close this aspect, we must observe that in several cases in the past, especially in Original Application Nos. 398 of 1992 disposed of on 28th August, 1992 and O.A. No. 165 of 1992 disposed of on 30th April, 1992 it has been held that an Extra Departmental Branch Post Master should not be allowed to act as a Primary School Teacher. In the said judgment it was also observed that a particular incumbent must chose to either continue as a Teacher or in the Postal Department. The view taken in both the judgments apply in full force to the facts of the present case. Therefore, we would direct Opposite Party No. 3 i.e. the Superintendent of Post Offices, Balasore Division to immediately give notice to the petitioner that he would give his choice within 15 days from the date of receipt of the notice from the Supdt. of Post Offices as to whether he would like to continue as Extra Departmental Branch Post master or as a School Teacher. In case the petitioner offers himself to work as an Extra Departmental Branch Postmaster then he should be asked to resign from the post of Teacher and thereafter it is his responsibility to take necessary steps for getting his resignation accepted by the concerned authority of the School and in case the petitioner does not become successful in his attempt to get his resignation accepted within the date

one month from the date of filing of the show cause before the Supdt. of Post Offices, the Supdt. of post offices will be at liberty to comply with the formalities of law and consider termination of the services of the petitioner as an Extra Departmental Branch Post master.

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

Member (Administrative)
05 Nov 93

Ho. and Or.
5/11/93,

Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty/
November , 1993.

