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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NO.512/91
Cuttack, this the 21st day of November, 1995

Kunu Prusty ... Applicant.

Vrs.

Union of India and others Respondents.

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? *Yes*
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *Yes*

N. Sahu
(N.SAHU)
MEMBER (ADMINISTRATIVE)

D.P. Hiremath
(D.P.HIREMATH)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 512 OF 1991
Cuttack, this the 21st day of November, 1995

CORAM:

THE HONOURABLE SHRI JUSTICE D.P.HIREMATH, VICE-CHAIRMAN
AND
THE HONOURABLE SHRI N.SAHU, MEMBER (ADMINISTRATIVE)

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Kunu Prusty,
s/o late Gundicha Prusty,
Upper Division Assistant
(Officiating) in the Office
of the P.M.G., Sambalpur Region,
At/P.O/P.S-Sambalpur ... Applicant.

By the Advocates - M/s S.Misra-1,
S.N.Misra,
G.P.Mohapatra,
S.K.Nayak-2 &
S.Mallick.

-versus-

1. Union of India, through
the Director-General of Posts,
Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General,
Orissa Circle,
At/P.O/P.S-Bhubaneswar,
District-Puri.
3. Post Master General,
Sambalpur Region, Sambalpur
At/P.O/P.S-Sambalpur
District-Sambalpur ... Respondents.

By the Advocate - Mr.Aswini Kr.Misra.

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O R D E R

D.P.HIREMATH, VICE-CHAIRMAN

The applicant was appointed as Postal Assistant (L.D.C.) and was posted as Office Assistant in the office of the Director, Postal Services, Sambalpur on 8.2.1980. By order dated 10.9.1980 he was directed to work as Establishment-I Assistant, which is a post in the cadre of Upper Division Clerk (U.D.C.), till 14.4.1982. For the period from 10.9.1980 till 14.4.1982 he was paid in the scale prescribed for L.D.C. although he worked as U.D.C. From 14.4.1982 till 30.6.1982 also he was posted to officiate as U.D.C. for two consecutive terms of leave vacancy. For the said period he was duly paid his pay in the scale of U.D.C. Again for the period from 1.7.1982 till 1.8.1982 he worked in the same post as Establishment-I Assistant, but he was not paid the U.D.C. scale for this period. From 2.8.1982 till 25.8.1982 and from 26.8.1982 till 20.1.1987 again he was made to officiate in the post of U.D.C. and was paid in the proper scale of pay prescribed for the U.D.C. Thus from time to time between 21.1.1987 and 2.5.1990 he was directed to officiate as Assistant as referred to above and even till he filed the Application in the year 1991 he was officiating in that post from 2.5.1990 and was receiving the salary in the scale of U.D.C.

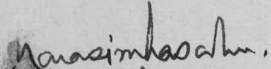
2. On 10.10.1990 he made a representation to respondent 3 requesting him to give him the U.D.C. scale for the periods aforesaid. Since the said representation followed by another reminder dated 26.11.1990 was not responded to, he made another representation, but he did not receive any reply. Hence this Application for a direction that he be paid the aforesaid scale of U.D.C. from 10.9.1980 to 14.4.1982 and from 1.7.1982 to 1.8.1983 (the counsel now corrects the period as 1.7.1982 to 1.8.1982 in the relevant column at paragraph 8 where it has been typed by mistake that it was up to 1.8.83). Therefore, we shall take it that from 1.7.1982 to 1.8.1982 he requests for differential pay calculated on the basis of pay entitled to less the pay received with consequential benefits, namely, fixation of pay from 1.1.1986 according to Rules.

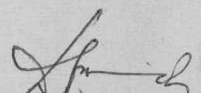
3. Main contention of the respondents has been that he was a probationer, that he was paid some allowances and therefore, he was not entitled to the scale of pay that now is demanded. Having given our thought to the said objection raised by the respondents, we only make it clear that when the applicant was asked to officiate as Assistant and that post carried the scale of U.D.C., it was only but proper for the respondents to pay the applicant the scale which that post was carrying as it was done for the rest of the periods referred to above. In this behalf, the applicant

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has invited our attention to a decision of this Tribunal in Original Application No.434 of 1990, decided on 12.9.1991 wherein in a similar situation this Tribunal directed that the applicant therein be paid the amount due to him in the pay scale of an U.D.C. for the period in which he had worked. In our view, this decision of this Tribunal has clearly held that an official who works in a particular post will be entitled to the scale of pay that post carries. The facts of this decision are squarely attracted by the facts of the instant case. At this stage, the learned counsel for the respondents has urged that whatever allowances ^{were} paid during this period may be deducted. Considering that aspect of the matter, we direct that the applicant shall be paid at the scale of pay carried by the post of U.D.C. for the two periods, namely, 10.9.1980 to 14.4.1982 and from 1.7.1982 to 1.8.1982 less whatever charge allowances that were received by him in addition to the pay of the L.D.C. that he was drawing, and the differential amount shall be paid to him within 90 (ninety) days from the date of receipt of a copy of this order.

4. With the aforesaid observation and direction, the Original Application is disposed of.


(N.SAHU)
MEMBER (ADMINISTRATIVE)


(D.P.HIREMATH)
VICE-CHAIRMAN