

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 64 of 1991

Date of Decision ; May 26, 1992.

Kulamani Mohanty Applicant

Versus

Union of India & Others Respondents

For the applicant

M/s. Devanand Mishra,  
Deepak Mishra,  
A. Deo, P. Panda,  
Advocates

For the respondents

Mr. Ganeswar Rath,  
Addl. Standing Counsel (CAT)

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C O R A M

THE HON'BLE MR. K. P. ACHARYA, VICE-CHAIRMAN

AND

THE HON'BLE MISS USHA SAVARA, 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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A N D

THE HONOURABLE MISS USHA SAVARA, MEMBER (ADMN.)

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J U D G M E N T

K. P. ACHARYA, V. C., In this application under Section 19 of the

Administrative Tribunals Act, 1985, the applicant prays for a direction to the respondents to finalise the pension, gratuity of the applicant and the same be paid to him within stipulated time.

2. Shortly, stated the case of the applicant is that while he was working as an Upper Division Clerk-cum-Accountant in the Office of the National Sample Survey Organisation and was posted at Sambalpur, a disciplinary proceeding was initiated against him on certain allegations and the disciplinary authority found him guilty of the charges and ordered ... which was subject ...

compulsory retirement and the Bench directed ~~that~~ reduction of pay by one stage without cumulative effect <sup>c</sup> would meet the ends of justice. This judgment has been carried in appeal to the Hon'ble Supreme Court by the Union of India which formed subject matter of Special Leave Petition(Civil) 2950 of 1988. The special leave petition having been allowed, the grievance of the Union of India formed subject matter of Civil Appeal No.1105 of 1988. The applicant is said to have filed representation before the respondents praying for his reinstatement and to grant him pensionary benefits. Vide Annexure-2 dated 20.2.1989 the Deputy Director(Administration) informed the applicant that the operation of the judgment passed by the Tribunal having been stayed by the Hon'ble Supreme Court the question of reinstatement does not arise. He was further informed that regarding pension, gratuity etc. the Regional <sup>Assistant</sup> Director Sambalpur has been advised to look into the matter.

The grievance of the applicant is that though provisional pension has been fixed by the concerned authority yet the applicant is facing great financial hardship in not being paid full pension. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that as per the advice of the Pay and Accounts Officer, the applicant has been authorised to draw provisional pension of Rs.375/- per month plus relief as admissible from time to time effect from 16.10.1986 and there, it is that the judgment of appeal to the Hon'

of Civil Appeal No. 1105 of 1983 pending consideration of the Hon'ble Supreme Court, final pension has not been determined as yet. The application being premature is liable to be dismissed.

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Aneswar Rath, learned Additional Standing Counsel (CAT) for the respondents.

It was submitted by Mr. Deepak Misra, arguing worst against the applicant the Hon'ble Supreme Court would at least allow the civil appeal thereby setting aside the judgment of this Tribunal and restoring the order of compulsory retirement passed by the disciplinary authority and in such circumstances, the applicant is entitled to all retirement benefits including final pension with effect from the date of compulsory retirement.

5. We have given our anxious consideration to the above mentioned arguments. Even if the contentions of Mr. Deepak Misra that at best the Supreme Court may set aside the order of this Bench reducing the quantum of penalty and that the final pension would be fixed on the basis of the pay drawn on the date of compulsory retirement, yet we would not like to express any opinion in this matter because the Hon'ble Supreme Court is <sup>in seisin</sup> ~~in seisin~~ of the matter which would ultimately determine the issue involved in the present case. Therefore, in such circumstances, we do not feel inclined to express any opinion in this matter.

6. Thus, this applic

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leaving the parties to bear their own costs.

*B. Sarangi*  
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MEMBER (ADMINISTRATIVE)

*lego*  
26.5.92  
.....  
VICE-CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench, Cuttack  
May 26, 1992 / Sarangi.

