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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 216 OF 1992.

Cuttack this the 17th day of July, 1992.

GOKUL BADEE.

...

APPLICANT.

-VERSUS-

UNION OF INDIA & 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? No.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM
VICE-CHAIRMAN)
17/7/98

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CUTTACK BENCH: CUTTACK.

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Cuttack this the 17th day of July, 1992.

C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

....

Gokul Badee, aged about 32 years,
S/o. Dhaneswar Badee,
at present working as E.D.D.A.,
Bhatli Sub Office, under Bargarh
Head Office, P.O. Bhatli, Dist. Sambalpur.

.... Applicant.

By legal Practitioner:- Devanand Mishra, R. N. Naik, A. Deo,
Advocates.

-Versus.

1. Union of India represented by its Secretary,
Department of Posts, Dak Bhavan, New Delhi.
2. Chief Postmaster General Orissa Circle,
At/P.O. Bhubaneswar, Dist. Puri.
3. Senior Superintendent of Post Offices,
Sambalpur Division, At/P.O./Dist. Sambalpur.
4. Assistant Superintendent of Post Offices,
(Headquarters) Sambalpur Division,
At/P.O./Dist. Sambalpur.

.... Respondents.

By Legal Practitioner :- Mr. Aswini Kumar Mishra, Senior
Counsel appearing for Respondents.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN :-

In this Original Application, under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents for payment of his allowances (which he was getting at the time he was put off duty) for the period during which he was put off duty.

2. Facts of this case, according to the petitioner, are that while he was working as Extra Departmental Delivery Agent, Bhatli Sub Office in account with Bargarh Head Office, Departmental Proceeding was initiated against him vide order dated 16-1-1989. The enquiry report on the disciplinary proceeding is dated 30.4.1990, which is at Annexure-9. It is submitted by the learned Counsel for the petitioner that even though in the enquiry, he has been fully exonerated, the period from the date of put-off duty till his date of reinstatement has been ordered to be treated as no duty and no pay basis.

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It is submitted by the learned counsel for the petitioner that he has filed representation on 10.9.1990, vide Annexure-2 claiming allowances for the period of put off duty but no orders have been passed on his representation and that ~~is how~~, he has come up in this Original application with the aforesaid prayer.

2. Respondents, in their counter have submitted that while the petitioner was working as EDDA, Bhatli Sub Office, departmental proceeding was initiated against him in which two charges were framed against him; First charge was that he had misappropriated a sum of Rs. 51/- which was a money order payable to one Kumari Pankajini Panda by fraudulently putting the signature of the payee. Second charge was that he took the stamps advance of Rs.10/- from the SPM Bhatli Sub Office on 9.8.93 giving a clear receipt but did not show the said impressed advance daily to the Subpostmaster Bhatli as required under rules. It is submitted by the Respondents that the applicant was not entitled to get the pay/ allowances for the period from the date of put off duty to till the reinstatement as there is no provision under Rule -9(3) of P & T ED Agents (Conduct and Service) Rules, 1964.

S. S. M.

On the above grounds, the Respondents have opposed the prayer of the applicant.

3. We have heard Mr. A. Deo learned Counsel for the Applicant and Mr. Aswini Kumar Mishra, learned Senior Counsel appearing on behalf of the Respondents and have also perused the records.

4. We have gone through the enquiry report submitted by the I.O. and the final order of the Disciplinary Authority passed by the A.S.P.P.O. (Headquarters). On a perusal of these reports, it is seen that with regard to first charge, the Disciplinary Authority has held that this charge is not proved at all against the applicant. On the other hand certain remarks have been made with regard to the ill-intention of some prosecution witnesses for the purpose of putting the applicant into trouble. In conclusion, the Disciplinary Authority has held that charge No.1 has not been proved.

S. Som

With regard to charge No.2, the findings is that the prosecution has failed badly to prove the misappropriation of stamp advance of Rs. 10/-. Overall conclusion is that the Disciplinary Authority had exonerated the petitioner.

petitioner from the charges and had ordered for his reinstatement in ED Service with immediate effect. Having ordered that, the Disciplinary Authority had ordered that the period of put off duty will be treated as 'no duty and no pay basis'. As in the Disciplinary proceeding, charges were not proved and the applicant has been fully exonerated, there is no logic in reaching the conclusion that the put off duty period should be treated as no duty and no pay basis.

SJM
The Respondents, in their counter have taken the stand that at the relevant point of time, there is no provision for payment of Subsistence Allowance to an ED employee during his period of put off duty. The petitioner has not asked for his Subsistence Allowance. He had prayed for his regular allowances for the period he was put off duty and we feel that as no allowances have been paid to him, at the time of putting him off duty, he is entitled to get the full allowances for the period in question.

5. In consideration of the above, it is ordered that the Respondents (Departmental Authorities) should pay the petitioner his full allowances as he was

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getting before putting him off duty by the Respondents. Learned counsel for the applicant has not been able to indicate the exact period during which the petitioner was put off duty. We do not also find from the pleadings any reference about the date on which the petitioner was put off duty and the date on which he was reinstated into service. But it appears that the charges were initiated against the petitioner in order dated 16.1.1989 and the final order is dated 30.4.1990. The petitioner had made several representations earlier to the Departmental Authorities for getting his allowances. In case, in the meantime, the petitioner has received any put off duty allowance for that relevant period that amount would naturally be deducted from his allowances which we order to be paid. This payment should be made to the petitioner, within a period of 90 (ninety) days from the date of receipt of a copy of this order.

6. In the result, the Original application is allowed. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
17/7/98