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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 242 OF 1992

Date of decision: April 28, 1993

Shri Bairagi Charan Patnaik ... Applicant

-Versus-

Union of India and others ... Respondents

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For the Applicant ... M/s Deepak Misra,
R.N. Naik,
A. Deo,
B.S. Tripathy,
P. Panda.
Advocates.

For the Respondents ... Mr. Ashok Misra,
Senior Standing Counsel
(Central).

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CORAM:

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN

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1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? *no*
3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

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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 petitioner prays for a direction to be issued to the Opposite Parties for payment of the balance of Rs. 493.25 paise due towards the arrear payment of pay and allowances of the applicant and to direct the Opposite Party No. 3 to grant leave encashment dues of balance 55 days 'leave due' on account of his suspension and compulsory retirement periods.

2. Shortly stated the case of the petitioner is that he retired from the Postal Department as Office Superintendent attached to the Office of the Chief Post Master General, Bhubaneswar with effect from 30th September, 1986. Out of the two prayers mentioned above, first prayer of the petitioner regarding payment of Rs. 493.25 paise has not been pressed by the petitioner and therefore, the Bench is confined to the second prayer regarding grant of leave encashment for 55 days.

3. In their counter, the Opposite Parties maintained that in compliance with the directions of the judgment passed in Original Application No.109 of 1986, all benefits as per the judgment passed in Original Application No.109 of 1986 has been given to him. In paragraph 2 of the counter, it is maintained by the opposite parties that the period of suspension from 8-9-1969 to 2-11-1970 and 7-11-1975 to 25-5-1976 have been regularised under F.R. 54 but by that the applicant is not entitled to earn leave to his credit. Hence it is further maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. I have heard Mr. Deepak Misra learned Counsel appearing for the Petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central). In this connection my attention was invited by Mr. Misra learned Counsel appearing for the petitioner to the observations made in the judgment passed in Original Application No.133 of 1988 contained in Annexure-1. In paragraph 7 of the judgment it is stated as follows.

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The applicant has also prayed for encashment of 38 days' leave during the period of his suspension from 8-9-69 to to 2-11-1970. The Member (Administration) P&T Board, New Delhi vide his order No. 203/130/75-DISC.II dated 5th January, 1979, a copy of which is at Annexure 3 has ordered on the appeal preferred by the applicant as follows :

"... In view of the above the period of suspension from 8.9.69 to 2.11.1970 may be treated as duty for all purposes including pay and allowances in terms of F.R. 54 (1)" (underling is for emphasis)"

From the above quoted matter, it is crystal clear that the Member (Administration) P&T had directed that the services of the petitioner during the suspension period be treated as duty for all purposes (emphasis is mine). By using the word of all purposes, the Member meant that ^{the petitioner} he must be entitled to all benefits such as pay and allowances including the encashment of leave. Therefore, I find no merit in the contention advanced by Mr. Ashok Misra learned Standing Counsel (Central) that the petitioner is not entitled to leave encashment for 55 days. Therefore, it is directed

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that the leave encashment for 55 days as claimed
is allowed in his favour. Amount to
 by the petitioner ^{be} computed and paid to the
 petitioner within sixty days from the date of
 receipt of a copy of this judgment.

5. Thus, the application stands allowed
 leaving the parties to bear their own costs.

K. C. Mohanty
 28/4/93

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 VICE CHAIRMAN

Central Administrative Tribunal,
 Cuttack Bench, Cuttack/K. Mohanty,
 28.4.93.

