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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.502 of 1992.

Date of decision: October 27, 1992.

Dinamani Mohanty ...

Applicant.

Versus

Union of India and others ...

Respondents.

For the applicant --- M/s.D.R.Pattnayak,  
B.K.Mishra,  
K.C.Pradhan, Advocates.

For the respondents ... Mr.Ashok Mishra,  
Sr.Standing Counsel(Central)

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C O R A M:

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 wishes 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 applicant prays to direct the respondents to disburse the salary and gratuity of the applicant with interest at the rate of 18 per cent per annum.

2. Shortly stated, the case of the applicant is that she is the widow of late Abhay Charan Mohanty. During his life time Abhay Charan was working as Extra-Departmental Branch Post Master of Arisandha Branch Office and had rendered services for 35 years. Unfortunately, Abhay died on 28.11.1991. The grievance of the applicant is that the duty pay which was payable to Abhay on account of service rendered by him from 1.11.1991 to 26.11.1991 has not been paid to the widow as yet, so also the gratuity money. Hence, this application has been filed with the aforesaid prayer.

3. Since I did not like this matter which involves extreme urgency to be kept pending for a long period, I had issued notice on the question of admission and hearing. Counter has been filed on behalf of the respondents in which the entire fault for non-payment has been loaded over the applicant who is an illiterate widow.

4. In their counter, the respondents maintained that because of the fault on the side of the applicant for not having come to the doors of the Postal Department, the delay has occurred.

5. I have heard Mr. D. R. Pattnayak, learned counsel  
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for the applicant and Mr. Ashok Mishra, learned Senior Standing Counsel (Central) on the merits of the case.

6. It is surprising that in the counter the verificant i.e. Shri Subash Chandra Barmma, Senior Superintendent of Post Offices, Bhubaneswar Division has made contradictory statements. In paragraph 3(1) it is stated that the duty allowance from 1.11.1991 to 25.11.1991 has been drawn but could not be disbursed due to his death. <sup>of Abhaya</sup> It could never have been drawn before the end of the month and nobody including the Senior Superintendent of Post Offices could have known that Abhay would die on 25.11.1991 so that the money had been drawn. If the money had been drawn by the end of the month I find no justifiable reason as to why it was not paid to the widow and in case it was really drawn I fail to understand what the verificant meant by saying,

" The applicant claimed the same latter on under usual process and the amount now stands sanctioned in her favour. "

No date of sanction has been mentioned in the counter. The Departmental authorities should have taken a very sympathetic view over the widow who must have been going with the begging bowls from post to pillar. The amount should have been sent to her through money order less the money order commission. I am of opinion that the departmental authorities have <sup>taken</sup> borne a very harsh view in the matter which could never be appreciated.

7. Next, so far as the payment of gratuity is concerned, Mr. Ashok Mishra, learned Senior Standing Counsel (Central) submitted that the applicant is not

entitled to gratuity. Rule 3 of the E.D. Agents (Conduct and Service) Rules, 1964 contemplates payment of ex-gratia gratuity. Therefore, in my opinion the applicant is entitled to draw gratuity money which was payable to her late husband.

8. In this connection it is stated,

" ... all papers in connection with the case have since been submitted to the appropriate authority (i.e. Chief Postmaster General (0), Bhubaneswar) for sanction of the amount in favour of the applicant and the same is expected to be sanctioned early. "

I would strongly commend to the Chief Post Master General (Mr. B.K. Mohanty) to ask his Office to put up the file without least possible delay before him to accord sanction. I am sure, Mr. B.K. Mohanty, Chief Postmaster General will definitely have a sympathetic view for this widow and pass necessary orders without any further delay. It is further directed that due to the delay occurring at the level of the Officers subordinate to the Chief Postmaster General, the applicant should be entitled to interest at the rate of 12 per cent per annum on the total amount of duty pay plus the gratuity money <sup>the date when it became due</sup> w.e.f. In the case of State of Kerala and others vrs.

M. Padmanabhan Nair, reported in (1985) 1 SCC 429, Their Lordships of the Supreme Court have been pleased to observe as follows:

" Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. "

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Even Their Lordships have gone to the extent by saying that the erring officials should reimburse the Government. The Chief Postmaster General will be well advised to cause an enquiry and whoever or whichever Officer is at fault that particular erring official should be ordered to reimburse the Government the interest which would be drawn from the State exchequer. It is directed that the money due to the applicant be paid within 30 days from the date of receipt of a copy of this judgment failing which consequence of law would follow against the erring officials. Send a copy of this judgment in the name cover of Mr. B. K. Mohanty, Chief Post Master General inviting his special attention to the observations of the Hon'ble Supreme Court quoted in paragraph 8 of this judgment.

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

Central Administrative Tribunal  
Cuttack Bench, Cuttack  
October 27, 1992/Saranggi.



*[Signature]*  
27.10.92  
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VICE-CHAIRMAN