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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

ORIGINAL APPLICATION NO:522 OF 1992

Date of decision: October 16, 1992

Sri Hari Sankar Bhaisa Applicant

Versus

Union of India and others Respondents

For the Applicant : Mr. J.N.Jethi, Advocate.

For the Respondents : Mr. D.N.Mishra, St.Counsel(Railway).

CORAM:

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

1. Whether reporters of local papers may be allowed to see the judgment? Yes.

2. To be referred to the reporters or not?

3. Whether His Lordship wish to see the fair copy of the judgment? Yes.

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JUDGMENT

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to direct the Opposite Party Nos.1 and 2 to dispose of the representation pending before the Opposite Party to No.2 and further/direct the Opposite Parties to allow the Petitioner to inspect his leave accounts.

2. I didn't think it worthwhile to keep this matter pending unnecessarily because of the nature of the prayer mentioned above. I had called upon Mr. D.N. Mishra learned Standing Counsel(Railway) to assist the Bench in the matter and therefore, I have heard Mr.J.N. Jethi learned counsel for the Petitioner and Mr. D.N. Mishra learned Standing Counsel(Railway) on the merits of this case.

3. Shortly stated the case of the Petitioner is that he was a Guard in the South Eastern Railway and retired on superannuation with effect from 31st January, 1992. The Petitioner's grievance is that though he has more number of days of leave to his credit but the office of Opposite Party No.2 had wrongly calculated the leave due to the petitioner and therefore only two days salary was offered to the petitioner.

4. Mr. D.N.Mishra learned Standing Counsel for the Railway, submitted that filing of this application is premature because if the petitioner's ^{has} ~~any~~ ^{any} doubts about the correctness of the leave account, he could have approached the competent authority and got his grievance redressed at the level of the executive authority. Mr. Mishra relied upon the provisions contained

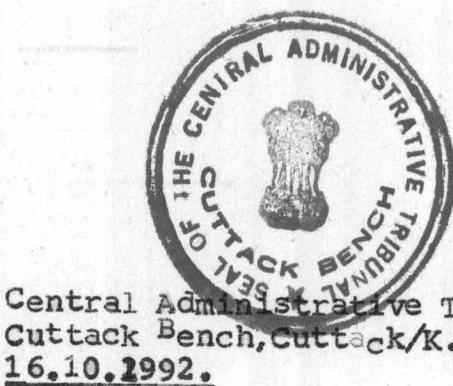
under section 20 of the Administrative Tribunals Act, and submitted that the application is not maintainable because other remedies have not been exhausted. In very many cases in past, the Division Bench has interpreted the word 'ordinarily' mentioned in section 20 which gives discretion to the Bench to waive this impediment in suitable cases. Therefore, the contention of Mr. Mishra learned Standing Counsel is overruled and the impediment if any ^{is waived} made and the following ^{are} _{is} given;

(1) The representation pending before the Opposite Party No.2 i.e. the Divisional Railway Manager, S.E.Railway, Chakradharpur filed by the Petitioner Shri Hari Sankar Bhaisa be disposed of within 30th November, 1992; and

(2) Petitioner is at liberty to present ^{himself} before the Divisional Railway Manager, S.E.Railway, who should give all the opportunity to the Petitioner to inspect the leave account register which would indicate the leave due to the petitioner and thereby if there is any mistake detected by the Petitioner, he is at liberty to file ^a representation before the competent authority and the competent authority should pass a reasoned order on the representation, if made by the Petitioner according to law and in case the Petitioner is still aggrieved, liberty is given to the Petitioner to approach this

Bench.

5. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.



K. Mohanty
16-10-92
VICE CHAIRMAN