

2

3

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK

REVIEW APPLICATION NO: 5 of 1991

Date of decision: February 2, 1992.

Union of India and others : Applicants

Versus

Kailash Chandra Panigrahi :Respondent

For the applicant : Mr.Ganeswar Rath,Standing Counsel

For the Respondents: M/s S.K.Mohanty, S.P.Mohanty,
Advocates.

CORAM:

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

A N D

THE HON'BLE MS. USHA SAVERA, MEMBER (ADMN.)

-
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 Their Lordships wish to see the fair copy of the judgment?Yes.
-

5
3
//2//

J U D G M E N T

K.P.ACHARYA, V.C.

This Review Application has been filed by the Union of India represented by the Secretary, Ministry of Defence, Chief Engineer, Lucknow Zone, Major, Garison Engineer (Opposite Party Nos. 1, 2 and 3) respectively in the Original Application No. 471 of 1989.

2. This Review Application arises out of the judgment passed in Original Application No. 471 of 1989 disposed of on 2nd January, 1991. This Original Application was heard alongwith Original Application Nos. 473 of 1989 and 474 of 1989 and a common judgment was passed governing all these cases as the grievance of the Petitioners in all the applications was ^{and} ~~warren-~~ ^{and} ~~warren-~~ the same. In the judgment, the Division Bench quashed the order of termination passed against the Petitioners in all the Original Applications and directed their re-instatement. While coming to such a finding at paragraph 13 the Bench observed that the Petitioners shall not be reinstated with retrospective effect and so far as the reinstatement in future is concerned, the competent authority may pass orders according to law, placing the applicants under suspension, if rules permit. In paragraph 14 of the said judgment, the Division Bench directed that due to the laches on the part of the Opposite Parties in

4
5
//3//

not giving one Month's notice to the Petitioners before termination or one month's pay in lieu thereof, the Petitioners are entitled to one month's pay which should be paid to each of them. These Review Applications have been filed with a prayer to review the directions contained in para-14 of the judgment granting the Petitioners in the said original applications ~~to~~ one month's pay.

3. We have heard Mr. Ganeswar Rath learned Standing Counsel appearing for the Union of India and others and we have also heard Mr. S.P. Mohanty learned Counsel appearing for the Opposite Parties in the Review Applications. We ^{are} ~~have~~ convinced that there has been an error apparent on the face of record and therefore, the provisions contained under order 47, Rule-1 of the Code of Civil Procedure ^{are} ~~is~~ definitely attracted. Once the Bench has said that the Petitioners are not entitled to reinstatement with retrospective effect and the termination order having been quashed on different grounds, the Petitioners were not entitled to one month's pay in lieu of the notice especially when they have been reinstated. Therefore, the observations made in para-14 of the judgment stand deleted and accordingly the prayer of the petitioners in these Review Applications stands allowed. The Petitioners in all the Original Applicants are not entitled to one month's pay.

//4//

4. While hearing this Review application, it was pointed out to ^{his} wash by Mr. S.P. Mohanty learned Counsel appearing for the Petitioner in this Review Application ^{that} ~~that~~ the matter ^{has} stated in paragraph 13 of the judgment also need ^{to} be reviewed because according to the settled position of law even if the Bench has not allowed reinstatement with retrospective effect the deemed date of reinstatement is with effect from the date on which the judgment was pronounced/~~passed~~. Accordingly this part of the judgment should be reviewed and further directions should be given to the Petitioners in this review applications. The aforesaid prayer of Mr. Mohanty was stiffly opposed by Mr. Rath learned Standing Counsel on the ground that this Review application ^{has} ~~has~~ been filed on behalf of the Opposite Parties and the Petitioners in the Original Applications and the Opposite Parties in this Review Application should not be permitted to put forth their grievance in connection with the review application filed by the Petitioners. There is some force in ~~in~~ the contention of Mr. Rath. The Court is ^{not} ~~enough~~ precluded from suo motu exercising jurisdiction to review a particular part of the judgment. This settled position of law was not rightly and fairly disputed at the bar. Therefore,

6 2
//5//

suo motu we direct that the following observations in paragraph 13 of the judgment be deleted and our further observations in this regard be given effect to.

" It was urged by Mr. Ganeswar Path that if the Court quashes the orders of termination the applicants may demand re-instatement. We direct that the applicants shall not be reinstated with retrospective effect and so far as the reinstatement in future is concerned, the competent authority may pass orders according to law, placing the applicants under suspension, if rules, permit".

At the cost of repetition we direct that this part of the judgment be treated as deleted and in its place the following shall find place.

" We direct that the Petitioners shall not be reinstated with retrospective effect, but the deemed date of reinstatement of the Petitioners will be taken as 2nd January, 1991 the date on which the judgment was passed".

5. As regards, the entitlement of the Petitioners to their emoluments, in case the Petitioners have reported to duty, soon after the pronouncement of the judgment, they are entitled to their emoluments with effect from 2nd January, 1991. Mr. Mohanty tells us that the Petitioners have reported to duty but their report was not accepted on the ground that the Review applications are pending. We cannot give any finding on regarding the correctness of as the grievance of the statement but our directions
V.N.

8
X
//6//

as stated above may be carried out. The emoluments to which the petitioners are entitled should be paid to the Petitioners in the Original applications with effect from 2nd January, 1991 within thirty days from the date of receipt of a copy of this order.

6. We would further observe that the competent authority is at liberty to pass orders regarding suspension etc., if rules permit.

7. This judgment will govern the Review Applications No. 3, 4 and 6 of 1991.

8. Thus, the Review applications are accordingly disposed of. No costs.

Miss USHA SAVARA

MEMBER (ADMINISTRATIVE)

Sd/ K.P. Acharya

7

VICE CHAIRMAN

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