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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.509 of 1993.

Date of decision : March 23,1994.

G.S.Ray

...

Applicant.

Versus

Union of India and others ...

Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not ? *AY*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? *ND*

by 23.3.94.
VICE-CHAIRMAN.

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Union of India and others ... Respondents.

For the applicant ... M/s.A.K.Misra,
S.K.Das, S.B.Jena,
Advocates.

For the respondents ... Mr.D.N.Misra,
Standing Counsel(Railways)

CORAM:

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

ORDER

K.P.ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a direction to the respondents to give all consequential service benefits to the applicant as he has been completely exonerated from the charges levelled against the applicant and the order of punishment has been quashed in O.A.483 of 1990 and so also to direct the respondents to give full pay during the period he was under suspension and during the period the applicant was out of duty due to the removal from service.

2. Shortly stated, the case of the applicant is that a set of charges was delivered to him while he was functioning as Goods Clerk on an allegation that he did not vacate the Government quarters allotted to him at Talcher.

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The disciplinary authority ordered removal of the applicant from service. The appellate authority reduced the penalty to the extent of stoppage of one increment for one year. Consequently, the applicant was reinstated to service. The back wages not having been paid to the applicant this application has been filed for appropriate direction to be issued to the Respondents.

3. In their counter, the respondents maintained that soon after the reinstatement the applicant was posted at Korei and since he did not join his place of posting ^{and} he tried his level best to get a posting at Bhubaneswar and due to non-joining his salary could not be drawn and paid to him. That apart, the principle of 'now ork no pay' having fullest application, the salary for a particular period for absence from duty has not been disbursed.

4. I have heard Mr. Aswini Kumar Misra, learned counsel for the applicant and Mr. D. N. Mishra, learned Standing Counsel (Railways). It was vehemently contended before me by Mr. D. N. Misra, learned Standing Counsel (Railways) that on the principle of 'now ork no pay', the applicant is not entitled to any emoluments from the date of his reinstatement till he joined at Jharsuguda. The posting of the applicant at Korei was within his full knowledge and on frivolous grounds, the applicant avoided to join at Korei. Therefore, the prayer of the applicant should be in limine rejected. On the otherhand,

Mr. A.K. Mishra, learned counsel invited my attention to Annexure-2 to the rejoinder wherein the appellante authority has stated as follows;

" Sri Ray has been imposed punishment with stoppage of increment for a period of one year with NCE. The intervening period i.e. from the date of his removal from service to the date of reinstatement to service will be regularised as leave due subject to observance of usual formalities i.e. on receipt of the application from the party. "

I am of opinion that a very reasonable order has been passed by the Divisional Personnel Officer vide his order No. P/Comm1/PCA-BCA/86/29 dated 24.3.1986.

Under the circumstances it is directed that the period of absence of the applicant from the date of reinstatement till the ^{day} previous to the joining at Bhubaneswar be treated as leave due to the applicant and accordingly the emoluments to which the applicant is entitled as per Rules be paid to the applicant within 60 days from the date of receipt of a copy of this judgment. The applicant will also be entitled to consequential benefits, if permissible under the Rules.

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


23.3.94
.....
VICE-CHAIRMAN.

Central Admn. Tribunal,
Cuttack Bench, Cuttack.
March 23, 1994/Sarangi, Sr.P.A.