

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.4 OF 1994

Cuttack, this the 30th day of March, 1995

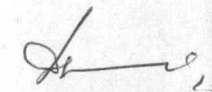
Shri Jagannath Majhi ... Applicant.

Vrs.

Union of India and others ... Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters
or not? *yes*
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunal or
not? *yes.*


(D.P. HIREMATH)
VICE-CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.4/94

Cuttack, this the 30th day of March, 1995

CORAM:

THE HONOURABLE SHRI JUSTICE D.P.HIREMATH, VICE-CHAIRMAN

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Shri Jagannath Majhi,
aged 59 years,
Retd.Sr.Superintendent of Post Offices,
Koraput Division,
son of late Khelaram Majhi,
Sunari Sahi,
Jeypore, District-Koraput ... Applicant.

By the Advocates ... M/s S.Kr.Mohanty &
S.P.Mohanty.

Vrs.

1. Union of India,
represented by its Secretary,
Department of Posts, Dak Bhawan,
New Delhi.
2. Post Master General,
Berhampur Region,
Berhampur.
3. Director of Postal Services,
Office of the Post Master General,
Sambalpur Region,
Sambalpur.
4. Chief Post Master General,
Orissa Circle,
Bhubaneswar ... Respondents.

By the Advocate ... Shri Ashok Misra,
Sr.Standing Counsel.

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O R D E R

D.P.HIREMATH, VICE-CHAIRMAN

The case depends entirely on admitted facts. The applicant is aggrieved by the respondents not permitting him to cross the Efficiency Bar when he was due to cross in the respective scales of pay that he was entitled to on the two promotions that he got before his retirement on superannuation on 31.5.1993. During the arguments, the learned counsel for the applicant made available a chart depicting the date of his appointment, the dates of his promotions when they became due, and where he was prevented from crossing the Efficiency Bar. The events stated chronologically in the chart are not at all disputed by the learned Senior Standing Counsel, Shri Ashok Misra for the respondents. The crucial date of the first phase of the case is 1.12.1983 when his increment was due in the scale of pay that he was drawing on promotion on 16.9.1982. On 1.12.1983 he was to cross the Efficiency Bar and his pay with effect from 1.12.1983 ought to have been raised from Rs.810/- to Rs.845/-. This he was not permitted to do for the reason that some departmental enquiry

was contemplated though actually not initiated. The D.P.C. met on two occasions before 1.7.1986 and on both the occasions his case of permitting to cross the Efficiency Bar was not considered for the reason that there was a vigilance case pending against him though no enquiry was actually initiated. But it was only on 1-7-1986 that disciplinary proceedings were actually initiated under Rule 14 of the C.C.A. (CCS) Rules, 1965, and relying on a decision of the Supreme Court reported in AIR 1991 S.C. 2010 (paragraph 6) (Union of India v. K.V. Jankiraman), the learned counsel for the applicant, Shri Mohanty has pointed out that the departmental enquiry should be taken to have been initiated only when actually the charge memo is served on the delinquent government servant. This position is now well-settled. If that be so, in the earlier D.P.C. the question of the applicant crossing the Efficiency Bar ought to have been taken up and the same ought to have been cleared as no enquiry was pending against him. The learned Standing Counsel cannot dispute this position. Therefore, it was only unjustified on the part of the respondents to have denied him the benefit of crossing the Efficiency Bar when

he was due to cross on 1.12.1983. It is, therefore, necessary that a direction should be given that his pay should be fixed at Rs.845/- with effect from 1.12.1983 even though he had already crossed the Efficiency Bar, there being no factor which would disentitle him to cross the Efficiency Bar.

2. The punishment imposed on him in the disciplinary proceeding was denied inasmuch as there was direction for reduction of pay by two stages from Rs.2525/- to Rs.2375/- for a period of two years with effect from 1.4.1988 with a further direction that the applicant would earn the increments of pay during the period of such reduction and that on expiry of the said period, the reduction will not have the effect of postponing the future increments in the pay. Therefore, this punishment does not in any way come in the way of the applicant for earning increments when they fall due.

3. The second phase of the case is in a much better footing in so far as the arrear is concerned. He was promoted to Junior Time Scale, Group-A cadre on 22.6.1990 in the pay-scale of Rs.2200-4000/- with E.B. at Rs.2800/-. Thereafter

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he was to get increment of Rs.100/- per year. Though on 1.7.1991 itself he was to cross the Efficiency Bar and get Rs.2900/- per month on that date, unfortunately no decision was taken in this behalf till he retired on superannuation on 31.5.1993. The learned Standing Counsel has practically no defence in this second phase of the case inasmuch as the Director-General of Posts at Delhi did not deal with his case and come to any decision before the date of his superannuation. That in other words would clearly go to show that though the Department ^{was} ~~is~~ fully aware of the applicant reaching the age of superannuation on 31.5.1993 did not care to expedite the taking of decision. This is how even ^{before} ~~on~~ his retirement the applicant did not get the benefit of crossing the Efficiency Bar. In that view of the matter, the application deserves to be allowed and the applicant shall be deemed to have crossed the Efficiency Bar on 1.12.1983 and 1.7.1991. His pay with increments due on respective dates shall be fixed and he shall be paid the arrears that are now due within ninety days from the date of receipt of copy of this order, and the benefit that he

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now gets by the order of this Tribunal shall also be made available in the calculation of his pension.


(D.P. HIREMATH)
VICE-CHAIRMAN

A.Nayak, P.S.