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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 539 OF 1994.

Cuttack, this the 10th day of December, 1999.

SHRI JAYAKRISHNA BEHERA. ....

APPLICANT.

VRS.

UNION OF INDIA & OTHERS. ....

RESPONDENTS.

FOR INSTRUCTIONS

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

10.12.99  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 539 OF 1994.  
Cuttack, this the 10th of December, 1999.

**C O R A M:**

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

..

Shri Jayakrishna Behera, Aged about 47 years,  
S/o late Gobinda Behera, At. Ratnakar Road,  
Bali Nolia Sahi, Puri. ... Applicant.

By legal practitioner : M/s. S. S. K. Mohanty, S. P. Mohanty, Advocates.

- Versus -

1. Union of India represented by Secretary, Ministry of Surface Transport, New Delhi-1.
2. Senior Hydrographic Surveyor, Minor Ports, Survey Organisation of Commerce House, 4th floor, Ballard Estate, Bombay, 38.
3. Chief Engineer and Administration Andaman Lakhyadweep Harbour Works, Gandhi Nagar, PO Box No. 161, Andaman-1.

... Respondents.

By legal practitioner : Mr. S. B. Jena, Additional Standing Counsel (Central).

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O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL) :

Applicant, Shri Jayakrishna Behera, who was employed under the Respondents and has been removed from service in a proceeding, prays in this Original Application under section 19 of the Administrative Tribunals Act, 1985, for issue of direction to treat the period of suspension from

23.1.1987 to 4.4.1987 as on duty with consequential benefits and also to pay Subsistence Allowance for the period from August, 1987 to December, 1989, January, 1990 to October, 1990, February, 1991 to April, 1991 and July 1992 to April, 1993.

2. During hearing Mr. S. P. Mohanty, learned counsel for the applicant rightly did not press the relief for treating the period of suspension as on duty because challenging the order of dismissal he has since filed Original Application No. 117 of 1994.

3. As to the non-payment of Subsistence Allowance, the Department in paras 8 and 9 of the counter, specifically urged that since the applicant did not produce the required certificate of non-employment or non-engagement during that period as required under FR-53, the same was not paid even though, Subsistence Allowance for other periods of suspension has since been paid because of production of such certificate concerning that period.

In response to this counter, applicant filed rejoinder on 30th of July, 1993 stating that in Regd. Letter dated 28.7.1993 addressed to Respondent No. 3 for sanction of Subsistence Allowance for this period, he had enclosed the necessary certificate indicating that he was not engaged in any employment, business, profession or vocation during that period. Xerox copy of that letter has been annexed as Annexure-9 and xerox copy of the concerned postal receipt has been annexed as Annexure-10.

Since the Respondents take a positive stand as to the non-receipt of any such certificate, the applicant, if so advised, may furnish such certificate afresh to the competent authority within fifteen days from today in which case, that authority is directed to sanction and disburse the Subsistence Allowance, with a period of 30 (thirty) days thereafter.

4. In the result, the Original Application is disposed of as per the observations and directions made above. No costs.

15.12.99  
(G. NARASIMHAM)  
MEMBER (JUDICIAL)