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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 613 of 1994

Cuttack this the 9th day of December, 1994

A.K. Parida

Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

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


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 613 of 1994

Cuttack this the 9th day of December, 1994

C O R A M:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN)

Akshaya Kumar Parida, aged about 44 years,
S/o. Late Keshab Chandra Parida,
Village/PO: Balikana, P.S. Aul,
Dist: Kendrapara, At present
Senior Auditor, Office of the
Accountant General (Audit-I)
Orissa, Bhubaneswar

... Applicant/s.

By the Advocate: Mr. A.K. Nayak-2

Versus

Union of India, represented through:

1. The Accountant General (Audit-I)
Orissa, Bhubaneswar
2. The Deputy Accountant General (Administration)
Office of the Accountant General (Audit-I)
Orissa, Bhubaneswar
3. Audit Officer, O.E.-I/Cash
-Office of the Accountant General (Audit-I)
Orissa, Bhubaneswar

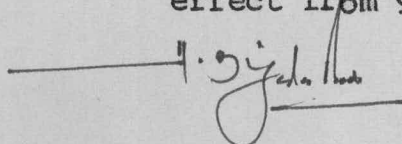
... Respondent/s

By the Advocate: Shri U.B. Mohapatra,
Addl. Standing Counsel (Central)

...
O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): The applicant, Shri Akshaya Kumar Parida, Sr. Auditor in the Office of the Accountant General (Audit-I), Bhubaneswar, has filed this application seeking a direction to be issued to Respondents to pay his full subsistence allowance from 9th May, 1994, the date on which he was placed under suspension.

2. The applicant was placed under suspension with effect from 9.5.1994, in connection with certain alleged



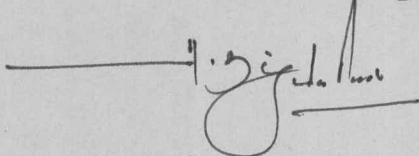
criminal offences. On 17.5.1994, orders were issued sanctioning him subsistence allowances during the period of suspension @ Rs.825/- per month. The officer receives Rs.1,511.00 per month by way of miscellaneous allowances besides the subsistence allowance. He is thus in receipt of a total gross subsistence allowance of Rs.2,336/- The following deductions were enforced from the above gross amount :

1) Advance of L.T.C.	Rs. 500.00
2) House Building Advance	Rs. 500.00
3) Festival Advance	Rs. 50.00
4) Contribution to Central Govt. Employees Insurance Scheme	Rs. 30.00
TOTAL:	Rs. 1,090.00

Thus the applicant is receiving Rs.1256/- per month after the deductions.

3. The applicant argues that no attachment from the subsistence allowance is permissible and, therefore, any deductions made from it are illegal. He has represented to his departmental superiors in this regard but his request have been turned down.

4. The applicant cites a case disposed of by This Tribunal (A.T.Roy, Asstt. Audit Officer vs. Union of India & Others) in which this Tribunal stayed certain recoveries from the subsistence allowance of the applicant. During the hearing the learned counsel for the applicant, Shri B.K.Nayak-2, cited a case decided by the Hon'ble



Supreme Court reported in AIR 1983 SC 833 (State of Maharashtra vs. Chandrabhan in support of his claim.

5. The respondents in their counter-affidavit state that, according to the Government of India order No.4(2) under FR 53, deductions by way of LTC, HBA, Festival Advance and Contribution to Central Government Employees Insurance Scheme fall under the category of compulsory deductions, ^{whereas} The applicant ~~also~~ argues that the recovery of advance of LTC falls under Sub-para 5 under Para 4 of FR 53. Shri U.B. Mohapatra, learned Additional Standing Counsel refuted this and pointed out that this sub-para concerns the recovery of over-payments, ^{the} and [^]unadjusted amounts of LTC advance can not be equated to over-payments.

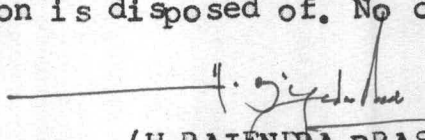
6. The facts and circumstances of the case decided by the Supreme Court referred to by the petitioner were different from the facts of the present case inasmuch as the Government servant in that case was granted only one rupee as subsistence allowance and no recoverable advances figured in that case. The Supreme Court held that a Civil Servant under suspension ^{is} entitled to normal subsistence allowance, ^{and} on the facts of that case ~~also~~ allowed the writ petition on the ground that the payment of one rupee was considered hopelessly inadequate. The facts of this case are different. The applicant is being paid more than his full subsistence

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allowance of Rs.825/- after all the deductions, and the recoveries are seen to be compulsory and unpostponable. Under the circumstances, the action of the respondents cannot be faulted as violative of any rule. Sub-para 5 under para 4 of FR 53 is not applicable in the present case.

7. The applicant is no doubt undergoing considerable financial stress. Although it is recognised that the applicant is put to hardship in looking after his family comprising, besides himself and wife, four children, apart from having to defend himself in ongoing Court cases. However, I do not see how this Tribunal can possibly interfere in the matter when the rules do not support the relief(s) prayed for by the applicant.

8. The respondents may, however, examine the applicant's case with regard to review of the existing subsistence allowance as envisaged by Rule 53(1)(3)(c) and (d) with a view to extending to the applicant such reliefs as may be applicable and available under these rules. Thus the application is disposed of. No costs.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

09 DEC 94

B.K. Sahoo//