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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK

O.A.NO. 377 OF 1995

Cuttack, this the 30th day of July, 2002

Madan Mohan Pattanayak Applicant
Vrs.
Union of India and another Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not?
No
- 2) Whether it be circulated to all the Benches
of the Central Administrative Tribunal or not?
No

Madan Mohan Pattanayak

(M.R.MOHANTY)
MEMBER(JUDICIAL)

S.K.HAFRA

(S.K.HAFRA)
MEMBER(ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

O.A.NO. 377 OF 1995
Cuttack, this the 29th day of July, 2002

CORAM:

HON'BLE SHRI S.K.HAJRA, MEMBER (ADMN.)
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDL.)

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Madan Mohan Pattanayak,
son of Satyanarayan Pattanayak,
At/PO-Kudiary, Dist.Khurda,
at present working as S.M./TAP,
Tapang Railway Station, P.O-Narangarh,
District-Khurda Applicant

Advocates for applicant - M/s D.R.Pattanayak
M.K.Khuntia &
S.R.Mohapatra.

Vrs.

1. Union of India, represented by its
Divisional Manager, South Eastern Railway,
Khurda Road, At/PO-Jatni, Dist. Khurda.
2. Senior Divisional Personnel Officer,
S.E.Railway, Khurda Road, At/PO-Jatni,
District-Khurda Respondents

Advocate for respondents - Mr.D.N.Mishra,
Standing Counsel(Railways)

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O R D E R

MR. S. K. HAJRA, MEMBER (ADMN.)

The applicant was posted, upon facing an inter-
Divisional mutual transfer from Waltair Division of
S.E.Railway to Khurda Road Division, as L.R.Assistant
Station Master (A.S.M.) at Kandapur, in the scale of
Rs.1200-2040/- (R.P.S.) against a higher grade vacancy

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of Station Master (S.M.) in the scale of Rs.1400-2300/- (R.P.S.) by office order dated 4.2.1991 (Annexure A/1). The applicant worked in the said post from 5.2.1991 to 11.6.1992. The applicant submitted a representation to respondent no.2 on 12.10.1993 for payment of officiating allowance for working in place of S.M. in the scale of Rs.1400-2300/- (R.P.S.) from 5.2.1991 to 11.6.1992 (Annexure A/5). He was informed by respondent no.2, on 15.7.1992, that he would not be paid officiating allowance (Annexure A/7). Aggrieved by this order, the applicant filed this application seeking to quash the orders under Annexures 7 and 8 and for direction to the respondents to grant him officiating allowance from 5.2.1991 to 11.6.1992 in the scale of Rs.1400-2300/- (R.P.S.) with interest at 12% thereon.

2. The contentions advanced on behalf of the applicant are as follows. The applicant worked against the higher grade post of S.M. in the scale of Rs.1400-2300/- (R.P.S.) from 5.2.1991 to 11.6.1992. He was promoted as S.M. in the same station in the scale of Rs.1400-2300/- with effect from 12.6.1992. He was entitled to officiating allowance of the higher scale of Rs.1400-2300/- from 5.2.1991 to 11.6.1992 as he discharged higher responsibilities of S.M. and was ultimately found suitable as S.M. The representation of the applicant for officiating allowance for working in place of S.M. was rejected arbitrarily and without application of mind. No reasons were given for rejection of the applicant's plea.

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3. Learned counsel for the respondents advanced the following arguments. The applicant, along with Shri S.S.Narayana, applied for inter-Divisional mutual transfer, on account of domestic problems. The applicant's request for mutual transfer was accepted and he reported at Khurda Road Division as A.S.M. in the scale of Rs.1200-2040/-.. The applicant was found suitable for the post of S.M. in the scale of Rs.1400-2300/- and was promoted and posted as S.M., Kandarpur, in the existing vacancy available on 11.6.1992. The applicant was not entitled to officiating allowance of the post of S.M. from 5.2.1991 to 11.6.1992, as he was posted at his own request as A.S.M, Kandarpur. The representation for officiating allowance was rightly rejected by the respondents as he was not entitled to this allowance. The applicant was informed accordingly, by Annexure A/7. The applicant who remained silent, reopened the issue in 1995.

4. We heard both sides and perused the records. It is indisputable that the applicant was posted, at his own request, on inter-Divisional transfer, as L.R.A.S.M., Kandarpur, in the scale of Rs.1200-2040/- (Annexure A/1). The post of L.R.A.S.M. in the scale of Rs.1200-2040/- at Kandarpur was against a higher grade vacancy of S.M. in the scale of Rs.1400-2300/-. The applicant did not cite in his representation or in the O.A. any rule under which he was entitled to payment of officiating allowance for working in the post of A.S.M. The representation dated 21.5.1992 of the applicant for officiating allowance was

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rejected by respondent no.2 as far back as 15.7.1992. The applicant remained silent for almost three years. The O.A. was filed belatedly on 26.6.1995 without assigning any rule under which he was entitled to officiating allowance for the post of S.M., though he was posted as A.S.M. by the order at Annexure A/1. The applicant has not established his case by a shred of documentary evidence or rule under which he was entitled to the financial benefits claimed in the O.A.

5. For the reasons given above, there is no substance in the application. Therefore, we dismiss this Original Application without imposing any costs.

M.R.Mohanty
(M.R.MOHANTY) 30/07/2002

MEMBER (JUDL.)

S.K.Hajra
(S.K.HAJRA)
MEMBER (ADMN.)

AN/PS