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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.49 OF 1995
Cuttack, this the 21st day of May, 1996

Adhikari Jena

...

Applicant

Vrs.

Union of India & others

...

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? *Y*
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *W*

N. Sahu
(N.SAHU) 21/5/96
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 49 OF 1995
Cuttack, this the day of May, 1996

CORAM:

HONOURABLE SHRI N.SAHU, MEMBER (ADMINISTRATIVE)

...

Adhikari Jena,
B.P.M. Kasanda,
Via-Raj Sunakhala,
Dist.Nayagarh

....

Applicant

By the Advocate

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Mr.D.P.Dhalsamant

-versus-

1. Union of India,
represented through
the Chief Post Master General,
Orissa Circle, Bhubaneswar-751 001
2. Director of Postal Services,
O/O Chief Post Master General,
Orissa Circle,
Bhubaneswar-751 001.
3. Senior Superintendent of Post Offices,
Puri Division, Puri-752001.

By the Advocate

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Mr.Akhaya Ku.Misra,
Addl.Central Govt.
Standing Counsel.

O R D E R

N.SAHU, MEMBER (ADMN.)

The applicant, while working as EDBPM, Kasanda

BO in account with Rajasunakhala SO under Nayagarh HO, was
proceeded under Rule 8 of P&T ED Agents' (Conduct & Service)
Rules, 1964 for misconduct and was placed on put-off duty
on 7.7.1979 for misappropriation of Rs.530/- covered by
two MOs by forging the signature of payees. He was dismissed

by an order dated 25.7.1983 by the Senior Superintendent of Post Offices, Puri. He moved the C.A.T., Cuttack Bench, in O.A.No.175 of 1987 which was decided on 10.7.1990. The C.A.T. held that the applicant would be reinstated in service within a period of one month from the date of receipt of a copy of the judgment. Since the applicant was an EDBPM under contract, the C.A.T. did not allow his prayer for financial benefits during the period of his put-off duty. On receipt of the said judgment, the respondent No.3 had reinstated the applicant on 10.8.1990. But during the put-off duty period of the applicant, one Sri Nikunja Bihari Samantray was provisionally appointed and he worked as EDBPM, Kasanda BO with effect from 7.12.1979. Sri Samantray was accordingly informed that he was disengaged from his service. He did not make over the charge, but filed an application before the C.A.T., Cuttack Bench, on 4.9.1990, registered as O.A.No.314/90. The C.A.T. issued an order of status quo. Shri Samantray lost his case on 10.4.1991 which was communicated to the SSPOs, Puri, on 16.7.1991. The present applicant also filed a petition for contempt, C.P.No.41/90, against the SSPOs, Puri for non-implementation of the C.A.T. order dated 10.7.1990. The C.A.T. also pronounced a judgment on 17.7.1991 dismissing the contempt petition on the ground that Shri Samantray was not a party to the Original Application. However, after 16.7.1991 timely action was initiated for reinstatement of the applicant, but there was another serious allegation about production of forged educational certificate which was enquired into. After he was cleared of this, he was

finally reinstated by order dated 4.1.1992.

2. In this application, the applicant seeks a direction to the respondents to treat him as on duty from 10.7.1990 to 4.1.1992 and to pay him the pay and allowances otherwise due to him. Learned counsel for the applicant, Shri D.P.Dhalsamant, cited before me the decision of the Supreme Court in (1994) 27 ATC 829 (Sarita Thakur (KM) v. Union of India and another). That was a case where reinstatement was unreasonably delayed. The Tribunal ordered the applicant's reinstatement without back wages by its order dated 24.7.1991. The applicant was not reinstated within reasonable time after dismissal of S.L.P. Delay in reinstatement almost till the end of 1992 was not considered justified by the Supreme Court and therefore, the respondents were directed to pay back wages from 1.8.1991 till actual reinstatement.

3. On behalf of the respondents, it is submitted that E.D.Agents are not entitled to pay for the period they have not actually worked and as the applicant did not do any work for the period from 10.7.1990 to 4.1.1992, he was not entitled to any wages.

4. I have heard the rival counsel. On one point I am very clear in my mind, namely, that Shri Samantray lost his case on 10.4.1991. The applicant is entitled to back wages from 1.5.1991 till 4.1.1992. The respondents should not have debarred the applicant from joining the service simply because there was an allegation against him and they took their own time to make enquiry into the allegation. The respondents have squarely to be blamed for this. But with regard to the

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period from 10.7.1990 to 1.5.1991 the C.A.T. itself ordered status quo as on 4.9.1990. Thus the C.A.T. itself extended by implication the order of reinstatement from 10.7.1990 to 10.4.1991 by an order of status quo ante in Samantray's case. To that extent, the reinstatement order was modified by implication. Accordingly, I direct that full salary and allowances shall be paid to the applicant from 1.5.1991 to 4.1.1992, but for the period 10.7.1990 to 1.5.1991 I would treat that by the status quo order of the C.A.T. the reinstatement order virtually stood postponed and extended.

The application is partly allowed.

N. Sahu
(N.SAHU) 21/5796,
MEMBER (ADMINISTRATIVE)

A.Nayak, P.S.