

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 533 and 659/1994
Cuttack this the 22nd day of November/2000

IN BOTH THE OAS

P.C. Mishra

...

Applicant(s)

-VERSUS

Union of India & Ors.

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No.

22.11.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 533 & 659 OF 1995
Cuttack this the 22nd day of November/2000

CORAM:

THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

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IN O.A.533/95

Shri Prafulla Chandra Mishra, I.A.S.,
At present working as Inspector General
of Registration & Excise Commissioner,
Orissa, At/PO/District - Cuttack

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Applicant

IN O.A. 659/95

Sri Prafulla Chandra Mishra, I.A.S.,
Son of Sri Srinibas Mishra, aged about
38 years, At present working as I.G.R.-
cum-Excise Commissioner, Orissa
At: Board of Revenue, PO: Chandinichowk
Town & District - Cuttack

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Applicant

IN ALL THE OAS

By the Advocates

M/s.R.N.Naik
A.Deo, B.S.
Tripathy, P.
Panda, D.K.Sahoo
M.P.J.Ray
R.Rath

-VERSUS-

IN O.A.533/95 1.

Union of India represented by its Secretary
General Administration Department, Orissa
Secretariat, At/PO-Bhubaneswar, Dist-Khurda

2. State of Orissa represented by its Secretary
General Administration Department, Orissa
Secretariat, At/PO-Bhubaneswar, Dist-Khurda

3. Additional Development Commissioner &
Secretary to Government of Orissa, Planning
& Coordination Department, Orissa Secretariat
At/PO-Bhubaneswar, Dist-Khurda

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Respondents

IN O.A.659/95 1.

Union of India represented through its
Secretary, Department of Personnel &
Training, New Delhi

2. State of Orissa, through its Secretary to
the Government, General Administration Department
Orissa Secretariat Building, Bhubaneswar,
District - Khurda

3. Special Secretary to the Government, General
Administration Department, Orissa Secretariat
Building, At/PO-Bhubaneswar, Dist- Khurda

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Respondents

IN BOTH THE OAS

By the Advocates

Mr.U.B. Mohapatra
Mr.K.C.Mohanty

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O R D E R

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MR.G.NARASIMHAM, MEMBER(JUDICIAL) : Applicant and the main Respondents in both the Original Application are common. Though these two Applications were heard separately the matters being ^{int}in ~~a way~~ linked together, this common order will govern both the cases.

2. Applicant, Shri Prafulla Chandra Mishra , an officer of I.A.S. cadre, while functioning as Director, Consolidation at Cuttack, in G.A. Department Notification dated 7.7.1995, ~~he~~ was transferred to the post of Additional Secretary to the Government of Orissa, Planning & Coordination Department at Bhubaneswar. After handing over the charge and availing joining time, he joined at the new place on 15.7.1995 and submitted his joining report. On that day his immediate superior, i.e., Additional Development Commissioner and Secretary to the Government of Orissa, Planning & Coordination Department (Respondent No.3) of Original Application No.533/95 was not available at Headquarters. The applicant attended to normal duties from 15.7.1995 to 17.7.1995. From 18.7.1995 to 16.8.1995 he did not attend to duties by sending ^{leave} intermittant/applications on the ground of illness. After availing 17.8.1995 (Holiday) he reported to duty on 18.8.1995 in the Forenoon. In the meanwhile, by the G.A.Department Notification dated 16.8.1995, the applicant was transferred and posted as Inspector General of Registration and Excise Commissioner, Orissa at Cuttack. Hence in the Forenoon of 18.8.1995 itself, he relinquished the charge of the post of Additional Secretary, Planning & Coordination Department in order to join his new assignment at Cuttack. On 23.8.1995, he represented to the Secretary, Planning & Coordination Department to disburse his pay and allowance for the period from 7.7.1995 to 17.8.1995,

which includes joining time, pay, duty pay and leave salary and so on. In letter dated 25.8.1995, Secretary, Planning and Coordination Department indicated to the applicant that he had relinquished the charge of the Additional Secretary without any authority and directed him to join back in the Department of Planning and Coordination on the ground that the order of his transfer has been stayed till 7.9.1995 by the order dated 18.8.1995 passed by this Tribunal, in an Original Application filed by his predecessor at Cuttack. He was further intimated that his period of absence from 18.7.1995 would be treated as unauthorised.

Original Application No.533/95 has been filed with a prayer for quashing the communication of the Secretary, Planning and Coordination Department made on 25.8.1995(Annexure-9) and to direct release of salary of the applicant for the period from 7.7.1995 to 17.8.1995.

3. The stay order passed by this Tribunal continued till 7.9.1995.

4. Original Application 659/95 was filed for issue of direction to the Respondents to treat the period of 21 days, i.e., from 18.8.1995 to 7.9.1995 as joining time and disburse the salary to the applicant.

5. These facts are not in controversy.

6. The applicant justified his prayers on various grounds, which are not relevant for the purpose of discussion in view of certain other developments as refelected in the counters. In the counter of O.A.533/95 filed on 8.12.1995, the Department averred that the applicant had since been paid his pay for the period from 7.7.1995 to 17.7.1995 pursuant to the order dated 28.9.1995

of P. & C. Department. This averment has not been denied by the applicant through any rejoinder. Hence prayer in respect of this period, i.e. 7.7.1995 to 17.7.1995 in O.A. 533/95 having been fulfilled, needs no further consideration.

In respect of the period from 18.7.1995 to 7.9.1995, the Department in their counter in O.A.659/95 take the stand that disciplinary proceeding has since been initiated against the applicant vide Memo dated 11.10.1995 for unauthorised absence.

During hearing Shri B.S.Tripathy, the learned counsel for the applicant, Shri K.C.Mohanty, the learned Government Advocate appearing for the State of Orissa and Shri U.B.Mohapatra, the learned Addl.Standing Counsel appearing for the Union of India were heard.

7. After conclusion of hearing Shri Mohanty submitted ~~that~~ in writing a letter dated 13.11.2000 addressed to him by the Government of Orissa in G.A. Department ^{he has been informed} that the pay of the applicant for the period from 7.7.1995 to 7.9.1995 has since been drawn and disbursed to him and the period has been treated as leave due. Apparently the disciplinary proceedings initiated against the applicant has since been dropped, treating the relevant period as leave due. In fact on 7.9.1995 this Tribunal in ^{the} an Original Application filed by the predecessor of the applicant Shri B.P.Choudhury, while taking note of the fact that the applicant had since joined at Cuttack, observed that no direction could be given on the prayer of the applicant to treat the interim period from 18.8.1995 to 7.9.1995 as joining time, by observing that is essentially an administrative matter within the competency of the Government to decide suitably as per rules.

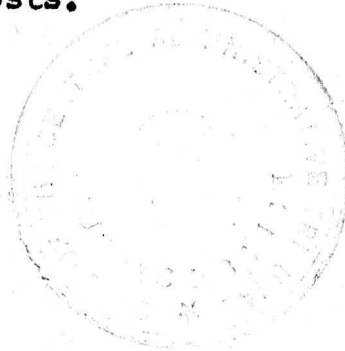
In view of ~~this~~ further developments, these two

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Original Applications are disposed of in terms of the decision of the Government of Orissa with regard to treatment of the periods covered in these Applications, but without any order as to costs.

B.K.SAHOO//



27.11.21
(G.NARASIMHAM)
MEMBER (JUDICIAL)