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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 840 OF 1996.

Cuttack, this the 15th day of April, 1999.

GAJARAJ SUNDAR RAY.

...

APPLICANT.

- VERSUS -

UNION OF INDIA & OTHERS.

...

RESPONDENTS.

(FOR INSTRUCTIONS)

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

L. N.
(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN

15.4.99

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CE NTRAL ADMI NISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 340 OF 1996.

CUTTACK, this the 15th day of April, 1999.

C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).
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GAJARAJ SUNDAR RAY,
aged about 59 years,
S/o late Bhrambar Sundar Ray,
Ankoi, PO:Motari, PS:Delang,
Dist. Khurda EX-Worker as Goods Clerk,
in the Office of the Chief Goods Supdt.
S.E. Railway, Khurda Road, At/PO/PS. Khurda
Road, Dist. Khurda. APPLICANT.

Petitioner in person

-VERSUS-

1. Union of India represented through its General Manager, South Eastern Railway, Calcutta, Garden Reach, Calcutta.
2. The Divisional Railway Manager, S.E. Railway, At/PO. Khurda Road, Dist. Khurda. ... RESPONDENTS.

By legal practitioner : Mr. R. C. Rath, Additional Standing Counsel (Railways).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

S. Jom.

In this Original Application, u/s.19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to give him all arrear dues as per the judgment in Original Application No. 483/90, 509/93 and SLP No. 504/1995. He has asked for a direction to the Opposite Parties to pay him retirement benefits such as Leave salary, commuted leave, refund of security deposit and bonus. He has further asked for interest

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at the prevailing Bank rate on the arrear dues.

2. Facts of this case, according to the Applicant, are that while he was working as Railway Commercial Clerk, he was served with a charge-sheet on an allegation that he had not vacated the quarters. Proceeding was accordingly drawn up against him and he was ordered to be removed from service. On appeal, the Authority modified the quantum of penalty to the extent of stoppage of increment for a period of one year with non-cumulative effect. The Appellate Authority also ordered that from the date of removal from service till the date of reinstatement, will be regularised as leave due. The petitioner has filed Original Application No. 483/90 challenging the order of removal from service and in order dated 16th of July, 1992, the quantum of punishment was quashed, and the applicant was exonerated. The judgment in OA No. 483/90 is at Annexure-1. Applicant has stated that in OA No. 483/90 he had asked for three reliefs ; firstly quashing of the order of punishment, secondly for regularisation of his services and thirdly for a direction to fix up his pay as per revised scale of pay Rules. The Tribunal quashed the punishment order but did not specifically directed to give all service benefits nor had the Tribunal fixed time limit to comply with the judgment. The applicant has stated that as in the OA 483/90, the punishment order was quashed, it was the duty of the authorities to give all consequential benefits to the applicant but this has not been paid. Petitioner submitted a representation to Opp. Party No. 2 praying for full pay from 1-6-1982 to 24.3.1986 with all arrear annual increments, arrear yearly bonus, arrear house rents, arrear National Holidays Allowance and for consideration of his case for promotion to the next higher posts. But as the

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representation of the petitioner was not taken into consideration, he filed another Original Application No. 509/1993 which was disposed of on 23rd of March, 1994 at Annexure-2. Applicant was issued with an order of reinstatement dated 21.4.84 posting him at Korai but he was away from duty till 24.3.1986 on which date, he was posted at Bhubaneswar. To cover up the period of absence from 1.6.1982 to 24.3.1986, the Tribunal ordered to treat this period as leave due and basing on that, he was paid the salary. This Tribunal in its order dated 23-3-1994 disposing of the Original Application No. 509 of 1993 directed that the period of absence of the petitioner should be treated as leave due. The applicant has stated that this order of the Tribunal is wrong as he was all along interested to join and he was never intimated that he was reinstated. He filed SLP against the order dated 23.3.1994 in OA No. 509/1993 before the Hon'ble Supreme Court. The SLP was disposed of in order dated 22-1-1996 which is at Annexure-3. The applicant has stated that even though the Hon'ble Supreme Court directed for payment of arrears but till today he has not been paid his arrear dues as per the direction of the Hon'ble Supreme Court as also the direction as issued by the Tribunal in order dated 23.3.1994. He filed another representation which is at Annexure-4 but without any result and that is why he has come up in this Original Application with the prayer referred to above.

3. Respondents in their counter have stated that the order of the Hon'ble Supreme Court in SLP No. 504/95 has been fully complied with and payment of salary from 24-4-84 to 24-3-86 amounting to Rs. 24,242/- has been drawn and paid to the applicant. As regards other claims, the Respondents have

stated that his last wages amounting to Rs. 24451/- has been paid. His leave salary amounting to Rs. 30,952/-, CGEGIS amounting to Rs. 6,736/-, PF amounting to Rs. 45,936/-, Commuted value of pension amounting to Rs. 31,606 and Pension amounting to Rs. 780/- have already been paid to the Applicant. As regards the claim of DCRG, Respondents have stated that the amount of Rs. 50,708/- has been certified vide PPA dated 22.5.1997 but the said amount has not been paid to the applicant as the applicant has not vacated the quarters. The applicant still is in occupation of the Government quarters unauthorisedly and the Sr.DCR, Khurda Road has written him in Annexure-R/3 asking him to vacate the quarters. As regards refund of security deposit, it is stated that the applicant has not deposited the security money receipt and on receipt of money receipt, necessary arrangement will be made to make the payment of the security amount, if any, to him. On the above grounds, Respondents have opposed the prayer of the applicant.

4. We have heard the petitioner in person and Shri R.C. Rath, learned Additional Standing Counsel appearing for the Respondents and have also perused the records.

5. In this Original Application, the petitioner has prayed for a direction to the Respondents to pay him all arrears as per the judgment in OA No. 483/90, 509/93 and SLP No. 504/95. In the SLP No. 504/95, Their Lordship's of the Hon'ble Supreme Court have directed payment of salary for the period from 24.4.84 to 24.3.86 within a period of four months. Respondents have stated in page 2 of the counter that this amount has already been paid to the applicant. This is also admitted by the

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Applicant. As regards Original Application No. 509/93, this was disposed of in order dated 23.3.1994 which is at Annexure-2. In the operative portion of the order, this Tribunal has directed that the period of absence of the applicant from the date ^{day} reinstatement till the previous to ^{1 J.M.} the joining at Bhubaneswar be treated as leave due and accordingly emoluments as per his entitlement, according to Rules be paid to the applicant within a period of sixty days. Against this order of the Tribunal, applicant went to the Hon'ble Supreme Court and the Hon'ble Supreme Court directed payment of salary for the period from 24-4-84 to 24-3-1986 which has already been paid to the applicant. Thus, the order of the Tribunal has merged with the order of the Hon'ble Supreme Court and the applicant is entitled to only for the period as directed by the Hon'ble Supreme Court and this has already been paid to him. As regards his retirement benefits, Respondents in their counter have indicated that all the retirement benefits have been paid to him as quoted by us earlier. As regards his other claims raised by the applicant during hearing of the petition like Bonus, arrear house rent, arrear annual increment, arrear holidays allowance etc. it is seen that the applicant has raised this claim in para 8(ii) of his OA No. 509/93 and the matter has already been concluded by the order of this Tribunal dated 23.3.94 against which the applicant has also gone to the Hon'ble Supreme Court and we have already referred the order of the Hon'ble Supreme Court. It is, therefore, not open for him to raise these claims again through another OA. From the counter ^{hand} of the Respondents it is seen that the applicant has not been ^{1 J.M.}

his DCRG and this is because of the non-vacation of the quarters by the applicant. He has also not been refunded the security deposit because he has not given the proper documentation for payment of the same. In the counter, Respondents have stated that subsequently the gratuity amount has been passed presumably because the applicant has vacated the quarters. In view of this, the gratuity amount payable to the applicant strictly in accordance with Rules should be paid to the applicant within a period of (60) sixty days if not already paid after deducting the Railway dues from the gratuity, if any. As regards security deposit, the same should be paid within a period of 90 (ninety) days from the date of filing of proper application to the Respondents with necessary required documents.

6. In the result, the original application is disposed of with the observations and directions made above. There shall be no order as to costs.

(S. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
15.4.99

KNM/CM.