

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 131 OF 1998

Cuttack, this the 28th day of October, 1999

Manmath Nath Das Applicant
Vrs.

Union of India and 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.*

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
28.10.99

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....
Manmath Nath Das, aged about 57 years, son of laate
Hemendra Prasad Das, At/PO/District-Balasore
..... Applicant

Advocate for applicant - Mr.T.Rath

Vrs.

1. Union of India, represented through Chief Post Master General, Orissa Circle, Bhubaneswar, District-Khurda.
2. Post Master General, Sambalpur Region, Sambalpur-768 001.
3. Superintendent of Post Offices, Dhenkanal Division, Dhenkanal.
4. Deputy Director of Accounts(Postal), Barabati Stadium, Cuttack-5, P.O/District-Cuttack
..... Respondents

Advocate for respondents - Mr.U.B.Moha-
patra, ACGSC

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for a direction to the respondents for the following:

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- (i) Payment of pension and arrears of pension;
 - (ii) Fixation of pay of the applicant at Rs.8250/- with effect from 1.1.1996 and payment of arrears on that account;
 - (iii) Payment of Gratuity and HRA from 13.8.1997 to 11.11.1997;

- (iv) Payment of GPF and other financial benefits along with 18% interest.

2. The applicant's case is that while he was working as Superintendent of Post Offices, Dhenkanal Postal Division, he gave notice for voluntary retirement and remained on leave from 13.8.1997 to 10.11.1997. He vacated the attached quarters on 12.8.1997. His notice for voluntary retirement was accepted and he was retired voluntarily with effect from 11.11.1997 forenoon. At the time of handing over of charge he found that his pay has been fixed at Rs.8000/- from 1.1.1996 whereas it should have been fixed at Rs.8250/- from 1.1.1996. He submitted the necessary application and papers for withdrawal of GPF and CGEIS dues. The applicant has made various averments about drawal of GPF and how he was asked to submit GPF application through proper channel. But for reasons which would be indicated later it is not necessary to refer to these averments. He also submitted pension papers on 7.12.1997. But in spite of all actions on his side, none of the dues has been paid to him and that is why he has come up in this petition with the prayers referred to earlier.

3. Respondents in their counter have stated that the applicant initially gave notice for voluntary retirement in his letter dated 11.2.1997 for retirement with effect from 10.5.1997. Before this notice could be accepted, he filed another representation on 29.4.1997 withdrawing the earlier notice. He again served another notice on 12.8.1997 and accepting that he was allowed to retire with effect from 11.11.1997. As regards payment of arrear dues, the respondents have stated that final payment of GPF amounting to Rs.2868.00 has been

paid to the applicant on 3.4.1998. For leave encashment, order has been issued on 16.4.1998. For sanction of CGEIS amount, Superintendent of Post Offices, Dhenkanal Division (respondent no.3) from which office the applicant retired had not received any application for this purpose from the applicant. Respondent no.3 requested the applicant to submit his application in his letter dated 20.4.1998, but instead of submitting the application the petitioner made further correspondence. Ultimately, the CGEIS amount of Rs.10,446.00 was remitted to the applicant in M.O. dated 2.7.1998. As regards pension and Gratuity, the respondents have stated that the applicant had taken leave on 15 occasions from June 1995 to November 1997 and had not taken steps to regularise these periods. Due to non-regularisation of the above 15 spells of leave, details of which have been given in the counter, his pension papers got delayed as it took time to verify the records. But ultimately, the periods were regularised and the applicant was paid provisional gratuity on 23.6.1998 and provisional pension along with arrears on 23.6.1998. It has been stated that the pay of the applicant has been fixed at Rs.8250/- with effect from 1.1.1996 and the arrear is being disbursed after obtaining non-drawal particulars from 1.1.1996 to 11.7.1996 when the applicant was working as Senior Post Master, Cuttack G.P.O. It is further stated that the applicant is not entitled to get any HRA during the period from 13.8.1997 to 11.11.1997 as he was on Extraordinary Leave during this period. The respondents have denied the averment of the applicant regarding his

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occupation and vacation of attached quarters. It has been stated that there is no attached quarters for the Superintendent of Post Offices at Dhenkanal. The applicant was staying in the spare room available in the office premises paying rent fixed by the Department. The applicant was on leave from 13.8.1997 to 10.11.1997 upto the date of voluntary retirement and he left the headquarters vacating the spare room for the purpose of claiming HRA. In the context of the above facts, the respondents have stated that all dues payable to the applicant have been paid expeditiously and there has been no avoidable delay and on that ground they have opposed the prayer of the applicant for payment of interest at 18%.

4. We have also taken into account the counter filed by the Deputy Director of Accounts who has been subsequently impleaded as respondent no.4.

5. We have heard Shri T.Rath, the learned counsel for the petitioner and Shri U.B.Mohapatra, the learned Additional Standing Counsel for the respondents and have also perused the records.

6. The applicant gave notice for voluntary retirement for the second time on 12.8.1997 after withdrawing his earlier notice. His second notice was accepted and he was allowed to retire on 11.11.1997. It is seen from the counter that his GPF amount was paid to him on 3.4.1998, i.e., within a period of less than five months. The respondents have pointed out that the applicant had submitted his GPF application directly and he was asked to submit the same through the office where he was last working. The applicant himself has stated

that he submitted his application for final withdrawal of GPF for the first time on 24.11.1997. As he had given notice in August 1997 he could have applied for the GPF final withdrawal earlier. Taking the date 24.11.1997 it is seen that the GPF amount has been paid within a period of four months and ten days. Taking into account the correspondence between the applicant and the Department, we do not think that this period involves any avoidable delay requiring the Department to pay interest at 18%. This prayer is accordingly rejected.

7. As regards leave encashment, the respondents have stated in the last paragraph of the counter that the leave encashment amount has been paid to the applicant on 27.4.1998. That is also within a period of five months and few days. Here also no claim for interest is admissible.

8. The applicant's claim for fixing his pay at Rs.8250/- has already been accepted by the Department and his pay has accordingly been fixed. It is therefore not necessary to pass any orders on this.

9. As regards payment of arrears due to revised pay fixation, the respondents have stated that steps are being taken to make payment. In case the amount has already been paid, the same should be paid to the applicant within a period of 90 days from the date of receipt of copy of this order.

10. As regards payment of pension and gratuity, the provisional pension and provisional gratuity have already been paid. The applicant submitted his pension papers on 16.11.1997 and filed this OA on 10.3.1998 even before expiry of three months from the date of submission of pension papers. Naturally therefore

after the case has been filed, the records are to be sent for filing of counter in this case. In view of this, we do not think that any claim for payment of interest has been made out. The same is true of payment of CGEIS which was made on 2.7.1998.

11. In consideration of all the above, we hold that the applicant has not been able to make out a case for payment of the dues which have already been paid to him. As regards HRA the respondents have pointed out that HRA is not payable as during the relevant period he was on Extraordinary leave. In view of this, no claim for HRA is made out.

12. In the result, the Original Application is held to be without any merit and is rejected but without any order as to costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

(SOMNATH SOM)

28.10.98
VICE-CHAIRMAN