

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 377 OF 1998.

Cuttack, this the 13th day of August, 1999.

Gopinath Mohanty.

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*

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(G. MARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
13.8.99

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 377 OF 1998.

Cuttack this the 13th day of August, 1999.

CO RAM :

THE HONOURABLE MR. SOMNATH SOM, VICE- CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDICIAL).

....

Sri Gopinath Mohanty, aged about 52 years,
S/O. Upendra Mohanty, Village-Pasulunda,
Post. Kuanpal, Dist. Cuttack. ...

Applicant.

By legal Practitioner: Mr. P. K. Padhi, Advocate.

-Versus-

1. Union of India represented by its Secretary, Ministry of Personnel and Public Grievance and Pension, Department of Pension and Pensioner's Welfare, New Delhi-110 001.
2. Chief Postmaster General (Orissa Circle) At/Po. Bhubaneswar, Dist. Khurda-1.
3. Director of Postal Services (Hqrs.) At/Po. Bhubaneswar, Dist. Khurda.
4. Senior Superintendent of Post Offices, Cuttack City Division, At/ P. K. Parija Marg, Po. GPO, Dist. Cuttack.
5. Deputy Director Postal Accounts, Barbati Stadium Campus, Cuttack-5. ... RESPONDENTS.

J.S.M.

By legal practitioner : Mr. S. B. Jena, Additional Standing
Counsel (Central).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for a direction to the Respondents to pay the petitioner all his retiral benefits with due interest at the market rate and to fix his pension immediately.

For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case because learned counsel for petitioner has confined his prayer only to payment of interest on the commuted value of pension. In view of this, only the relevant facts are being referred to.

2. Petitioner's case is that while he was working as Sub Post Master, Swaraj Ashram Post Office, he retired voluntarily w.e.f. 31.5.1998 as HSG II. He submitted application for voluntary retirement on 20.10.1997 and reminded on 16.1.1998 indicating his desire to take voluntary retirement on 31.5.1998. His option for voluntary retirement was accepted on 27.4.1998 and he was directed to retire on 31.5.1998. In this application, he has stated that he has not received any of the retirement benefits but Respondents in their counter have pointed out that he has been granted provisional pension and provisional DCRG on 10.6.1998 i.e. within ten days of his retirement. All other financial benefits have also been given to him promptly. Commuted value of pension he got only on 2.11.98 i.e. after five months. That is how, he has come up in this

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Original Application claiming interest on the commuted value of pension which was Rs.1,88,659.

3. Respondents, in their counter have pointed out that the Director, Postal Services, while accepting the notice of applicant for voluntary retirement and permitting him to voluntarily retire under Rule-47 of CCS (Pension) Rules, 1972, w.e.f. 31.5.1998 (AN) put the condition that he is not permitted to apply for commutation of pension before the normal date of his superannuation. Superintendent of Post Offices, later on, pointed out to the Director of Postal Services that there is no provision under the rules to withhold the commutation of pension till the normal date of superannuation and accordingly, Director of Postal Services, in his letter dated 7.8.1998 deleted this condition. Thereafter, the petitioner was allowed to commute his pension and he got the amount noted by us earlier.

4. We have heard Mr. P.K. Padhy, learned counsel for Applicant and Mr. S.B. Jena, Learned Additional Standing Counsel (Central) appearing for the Departmental Respondents and have also perused the records.

S.Jom. 5. From the order dated 17th of April, 1998, at Annexure-R/1 to the counter, it appears that applicant was allowed to retire voluntarily under Rule-47 of CCS (Pension) Rules, 1972. This Rule-47, had long ago been deleted from the CCS (Pension) Rules, 1972. So far as Commutation of pension is concerned, under Rule 12 of CCS Commutation of Pension) Rules, 1981, a person who is getting retiring pension under Rule 36 of the Pension

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Rules, is permitted to commute a part of the Pension, so obviously, this condition was wrongly imposed and on coming to know the fact, this condition has been deleted. Learned counsel for applicant has submitted that because of this mistake, his payment of commutation amount has been delayed by five months and for this, he has asked for payment of interest. In the instant case, we find that all other dues have been paid to applicant quite promptly. His provisional pension and provisional DCRG have been paid within ten days of his retirement. Other dues have also been paid promptly. In case of commutation of pension five months time has been taken because of this mistake which obviously was unintentional. It is also to be noted that applicant has taken voluntary retirement and unlike the cases of superannuation, the date of his voluntary retirement was not known in advance before giving such notice. In view of this, we hold that no case of payment of interest is made out. The prayer for payment of interest on commuted value of pension, is therefore, not allowed.

6. In the result, the original Application is dismissed but in the circumstances, without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/GM.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
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