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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 46 OF 1998
Cuttack this the 15th day of November, 1999

Rama Pukar Prasad

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
11.99

15-11-99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
UTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 46 OF 1998
Cuttack this the 15th day of November, 1999

CORAM:

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

Rama Pukar Prasad
aged about 61 years,
S/o. Late Munsi Prasad, At/Po: Basti Jalal
Via: Sitalpur, Ex-Monument Attendant
at present residing at Mausima Sahi,
At/Po: Konark, Dist: Puri

... **Applicant**

By the Advocates : M/s.B.N.Nayak
A.K.Dora
B.B.Mohapatra

-Versus-

1. Union of India represented through the Secretary, Department of Culture
Ministry of Human Resources & Development
Sastri Bhawan, New Delhi
2. Director General
Archaeological Survey of India
Janapath, New Delhi-110011
3. Pay and Accounts Officer
Archaeological Survey of India
New Delhi
4. Superintending Archaeologist
Archaeological Survey of India
Bhubaneswar Circle, Old Town
Bhubaneswar, Dist: Khurda

... Respondents

By the Advocates : Mr.A.K.Bose
Sr.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): In this Original Application filed on 20.1.1998, the applicant, who retired on superannuation as Monument Attendant on 28.2.1997, prays for issue of direction to the respondents to release the pension and other retirement dues with penal interest at the rate of 18% per annum from the date of retirement.

His case is that he retired at Konark in Orissa where he has been residing with his family for the last 25 years. Though he submitted all the required pension papers in the month of January, 1997 itself, pension and other retirement dues have not been released and paid to him for no fault of his.

2. On 22.1.1998 this application was listed for the first time before the Bench. On that day on the submission made on behalf of the applicant that no retirement dues including G.P.F. had not been paid to him, this Bench directed the respondents to pay to the applicant his G.P.F. dues as also the provisional pension as per rules within a period of 30 days in case the same have not been paid in the meantime.

3. Respondents (Department) filed their counter on 3.11.1998. According to them pension papers submitted by the applicant were in-complete/confusing. The applicant has two wives. His first wife Smt.Lalmani Devi is staying in Bihar with two sons, His second wife Smt. Kanchan Devi is residing with the applicant at Konark with three children. In the pension papers he has not enclosed joint photograph of his wife as

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required under the rules. The first wife reported to the Department as to the negligence of the applicant in taking care of her and her two children. On this account the respondents (Department) had issued instructions to remit Rs.350/- per month to the first wife for her maintenance after taking decision in this regard in the presence of the Executives of the Associations. After submitting joint photograph of his second wife for pension purpose, the applicant approached the Department in letter dated 7.1.1997 to change the name of his wife from Smt. Lalmani Devi to Smt. ~~Manchan~~ Devi in the Service Book stating that the actual name of his wife is Kanchan Devi. When he was asked by the Department to explain for misleading the Department by submitting the joint photograph of his second wife, the applicant replied that the first wife had not agreed for joint photograph simultaneously and in case sanction of family pension is ^{not} possible, at least pension can be sanctioned. On this the Department sent intimation to the first wife of the applicant requesting her to come to the office or send her comments regarding his pension (Annexure-R/7) dated 4.6.1997. Thus the Department had taken all possible steps to settle his pension. In fact soon after the receipt of form of option with regard to 5th Pay Commission Report from the applicant on 17.11.1997, his pay was fixed vide Order dated 24.11.1997 and the first instalment of pay and allowance for the period from 1.1.1996 to 28.2.1997 were drawn and paid on 28.11.1997. The final payment of G.P.F. accumulation

and second final payment of arrear pay and allowances as per 5th Pay Commission Report were made on 19.5.1997 and 2.6.1998 respectively. These material facts were deliberately suppressed by the applicant in his Original Application to mislead this Tribunal. On these grounds the respondents pray for dismissal of this application.

3. No rejoinder has been filed by the applicant refuting the averments made in the counter.

4. We have heard Shri B.N.Nayak, learned counsel for the applicant and Shri A.K.Bose, learned Sr.Standing Counsel appearing for the respondents. Also perused the records.

As earlier stated no rejoinder has been filed refuting the averments made in the counter. Even during hearing these averments have not been disputed by the applicant. It is seen that the G.P.F. was drawn and disbursed to the applicant on 19.5.1997 itself. Yet on the first day when the application was listed on 22.1.1998 the applicant had mislead this Bench by submitting that even G.P.F. dues had not been paid to him, which necessitated passing of an interim order for payment of G.P.F. dues within a period of 30 days. Even he deliberately suppressed in the Original Application about his fault in not submitting the joint photograph of his first wife along with the pension papers and he having married second wife during the life time and the subsistence of the marriage with the first wife. These facts being vital and relevant for sanction and release of pension, non-mention of these facts in the Original Application would amount to playing fraud on the Bench.

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Hence we are not inclined to consider his prayer for sanction and release of pension. We leave it to the Department to consider sanction of pension and other retirement dues as per rules.

It is true that though the applicant retired on 28.2.1997, the G.P.F. dues had been paid to him on 19.5.1997, i.e. after a delay of about two and half months. Yet we are not inclined to direct payment of interest on this delayed payment as he deliberately misled this Bench on 22.2.1998 stating that even by that date the Department had not drawn and disbursed his G.P.F. dues.

5. In the result we do not see any merit in this application which is accordingly dismissed, but without any order as to costs.

Somnath Sahoo
 (SOMNATH SQM)
 VICE-CHAIRMAN
 11.1.99

B.K. SAHOO

15-11-81
 (G. NARASIMHAM)
 MEMBER (JUDICIAL)