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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 683 OF 1998
Cuttack, this the 20th day of April, 2004

Sri Keshab Kishan Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? ye

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? ye

M.R. Mohanty
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
(B.N. SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

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Sri Keshab Kishan, aged 42 years, son of late Krishna Kishan, Village
Limtikra, Post Belpahar R.S., Dist. Jharsugudua, presently working as Postal
Assistant, At/PO Brajrajnagar Sub-Post Office, Dist. Sambalpur

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Applicant

Advocate for the applicant - Mr.P.K.Padhi.

Vrs.

1. Union of India, represented by its Chief Post Master General,
Orissa Circle, At/PO Bhubaneswar, Dist. Khurda 751 001.
2. Director of Postal Services, Sambalpur, At/PO Sambalpur,
Dist. Sambalpur.
3. Superintendent of Post Offices, Bolangir Division, At/PO/Dist.
Bolangir.
4. Superintendent of Post Offices, Sambalpur Division, At/PO/Dist.
Sambalpur

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Respondents

Advocate for the Respondents - Mr.B.Dash, ASC.

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O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Keshab Kishan, Postal Assistant, has filed this Original Application
ventilating his grievance to the effect that although he was ordered to work as
Stenographer-cum-Typist in the office of Superintendent of Post Offices,
Bolangir Postal Division from 20.4.1982 to 28.12.1987 and again from

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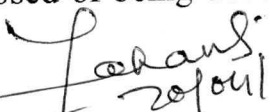
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4.4.1989 to 14.2.1997, he has been denied the salary of the post of Stenographer in the pay scale of Rs.1200-2040/-. He had also submitted representation dated 3.12.1997 to Respondent N.3 and representation dated 11.12.1998 to Respondent No.2, but without any result.

2. The Respondents have admitted the facts of the case. They have, however, stated that ~~the~~ his representation for payment of scale of pay or for higher scale was not entertained because the Superintendent of Post Offices, Bolangir Division, was not entitled to the service/ assistance of Stenographer-cum-Typist according to the norms of entitlement to personal staff for officers, as that officer was drawing pay of less than Rs.3000/-. However, special pay of Rs.40/- per month was sanctioned to the applicant vide memo at Annexure 4 and ^{they} have vehemently opposed the plea of the applicant that he was entitled to the pay of the post of Stenographer(Rs1200—2040).

3. We have heard the learned counsel for both the parties and have also perused the records placed before us. The learned counsel for the applicant, in support of his claim for the pay of the post of Stenographer-cum-Typist against which the applicant had worked, had drawn our notice to the decision of the Principal Bench of this Tribunal in the case of *Shri Surinder Singh and others v. Union of India*, 1997 (3) SLJ (CAT) 1, where it has been held if an employee has been asked to carry out the duty of a post, even though such an arrangement was not made in writing, the employee is entitled to payment of the pay of the post. He had also drawn our notice to our decision in OA No. 512 of 1991 that an official who works in a particular post will be entitled to

the pay scale of that post. He has also referred to the judgment of the Hon'ble Apex Court in the case of *Selvaraj v. Lt. Governor of Island, Port Blair and others* (CA Nos.1568-1569 of 1998, decided on 6.3.1998) where it has been held that a person working on a higher post though temporarily and in officiating capacity, is entitled to the scale of pay of such a post for such period he actually worked in that post. We have no doubt that we are bound by the above decisions. But as we see that the applicant had already been sanctioned special pay of Rs.40/- per month vide order of Respondent No.4 at Annexure 4, it is not open to the applicant now to claim for the pay of the post of Stenographer because the principle is that a person who is asked to officiate in higher post is paid the pay of such a higher post or special pay in lieu thereof unless the higher post has the built in provision for payment of special allowance or special pay over and above the pay of the post. In this view of the matter, we are unable to agree that the case laws cited by the applicant are of any help to his cause. Accordingly, this Original Application is disposed of being devoid of merit.


 20/04/04
 (M.R. MOHANTY)
 MEMBER (JUDICIAL)


 (B.N. SOM)
 VICE-CHAIRMAN