

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 232 OF 1999.

Cuttack, this the 16th day of December, 1999.

MANOJ KUMAR PATNAIK.

APPLICANT.

VERSUS

UNION OF INDIA & ORS.

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-CHIEF JUDGE
16.12.99

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ORIGINAL APPLICATION NO. 232 OF 1999.

CUTTACK, this the 16th day of December, 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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MANOJ KUMAR PATTNAIK,
S/O. Hari Charan Pattnaik,
Village/Post: Jalospatta, Via:
Tumudibandha, Dist. Kandhamal.

APPLICANT.

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

- Versus -

1. Union of India represented by its Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda.
2. Director of Postal Services (Berhampur), At/Po. Berhampur, Dist. Ganjam.
3. Superintendent of Post Offices, Phulbani Division, Phulbani, Dist. Kandhamal.

... RESPONDENTS.

S. Som.

By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel.

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O R D E R

(ORAL)

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application u/s.19 of the Administrative Tribunals Act,1985, the applicant has prayed for quashing the put off duty order,at Annexure-1 and for a direction to the Respondent No.1 to reinstate the applicant. Second prayer is for a direction to the Respondent No.3 to complete the enquiry in all respect within a short period failing which the proceedings should be deemed to have been quashed.

2. Respondents have appeared and filed their counter.

S. Som
3. We have heard Mr.P.K.Padhi, learned Counsel for the Applicant and Mr.A.K.Bose, learned Senior Standing Counsel (Central) appearing for the Respondents, and have also perused the records.

4. For the purpose of considering this application, it is not necessary to go into too many facts of this

case. According to the Respondents themselves, the applicant was put off duty in order dated 7-9-98 but the applicant avoided to receive the same and ultimately, the put off duty order was served on him only on 18.11.1998. Law is well settled that put up duty order takes effect from the date of issue and therefore, the applicant is deemed to have been under suspension w.e.f. 7-9-1998.

5. The prayer of the applicant is for getting the put off duty allowance. Previously, ED Agents were not entitled to the put off duty allowance but following the decision of the Hon'ble Supreme Court, the Department had amended the relevant rules in G.I. Deptt. of Posts Order No.19/36/95-ED and Trg., dated the 13th of January, 1997 providing for payment of ex-gratia during the period of put off duty. Respondents have not denied the averments of the applicant that during the period of his put off duty, not he has been paid any put off duty allowance i.e. exgratia payment. Respondents have stated that the applicant has not been co-operating in the enquiry and for his being he kept under put off duty is squarely attributable to him.

S. Jam.

But even conceding that point, the applicant can not be denied the basic exgratia payable under the relevant rules. In view of this, this prayer of the applicant is disposed of with a direction to the Respondents that with effect from the date the applicant has been put off duty, he should be paid the put off duty allowance at the basic rate in accordance with rules. The above direction is subject to the condition that this allowance be paid to the applicant only after he has handed over the full and complete charge to a person designated by the Departmental Authorities. This should be done within a period of 15 days from the date of receipt of a copy of this order. The put off duty allowance should be calculated and paid to the applicant on his handing over the charge within another 60 days thereafter.

6. The second prayer is that the put off duty allowance should be increased because of his long period during which he was put off duty. If the applicant so advised he may file a representation

to the Departmental Authorities. The Departmental Authorities should examine the representation and come to a finding that whether his continuance under put off duty is attributable to the applicant and on that basis take a view with regard to increasing of the exgratia allowance of the applicant. This prayer is also accordingly disposed of.

7. The next prayer of the applicant is for a direction to the Respondents to complete the Departmental enquiry initiated against him. Respondents in their counter have pointed out that after the applicant was put off duty, he did not accept the order and the order sent to him by Registered Post came back without delivery. It is also submitted that prima facie it is apprehended that the applicant is involved in certain mis-appropriation and for framing charges on those points, reference to the records of the Extra Departmental Branch Post Office is necessary but the applicant is not handing over the charge and therefore, reference to the records is not possible and that is why the charges have not yet been issued and the Departmental proceedings have not yet been initiated

J. J. M.

against the applicant. We note that the applicant is under put off duty for morethan one year and as we have directed, the applicant to hand over the charge within 15 days. It is should be difficult for the Departmental Authorities to issue charge to the applicant within a period of 45 days after the applicant hands over charge. In view of this, we direct the Respondents to issue charge-sheet to the applicant within a period of 45 days from the date the applicant hands over the charge of his office. Applicant has further prayed that the enquiry should be completed expeditiously. In view of the doncut of the applicant as mentioned by the Respondents in their counter and which has not been denied by the applicant through *S Jm* any rejoinder, we are not inclined at this stage to set a time limit to complete the proceedings, when charge-sheet has not been issued. But there are instructions of the Department with regard to the completion of the proceedings. Therefore, while dealing with the proceedings against the applicant, the circulars of the Department in this regard should be kept in view.

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8. The last prayer of the applicant is for quashing the put off duty order. As in this case, the applicant refused to accept the put off duty order and as he has not yet handed over the charge of the office, even after the put off duty order has taken effect and as because of his refusal to hand over the charge of his office, enquiry could not be held into the suspected misappropriation by him and charges could not be issued, there is no case for quashing the put off duty order. This prayer is accordingly rejected.

9. In the result, with the observations and directions made above, the original Application is disposed of. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
16.12.99

KNM/CM.