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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 349 OF 1999.

Cuttack, this the 15th day of May, 2000.

DR. BAISHNAB CHARAN MOHAPATRA.

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

J.S. Dhaliwal
(J. S. DHALI WAL)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
15.5.2000

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CUTTACK BENCH; CUTTACK.

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CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. J. S. DHALIWAL, MEMBER (JUDICIAL) .

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DR. BAISHNAB CHARAN MOHAPATRA,
Son of Late Indramani Mohapatra,
At/Po. Rajabagicha, Ps. Purighat,
Town & Dist; Cuttack.

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APPLICANT.

By legal practitioner ; IN PERSON.

- Versus-

1. Secretary, Government of India,
Ministry of Communication,
Department of Tele Communication,
Sansad Bhawan, 20, Ashok Marg,
New Delhi.

2. Chief General Manager, Telecom,
Orissa Circle, Bhubaneswar.

3. General Manager, Telecom, Cuttack. RESPONDENTS.

By legal practitioner : Mr. J. K. Nayak, Additional Standing Counsel.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application u/s. 19 of the
Administrative Tribunals Act, 1935, the applicant has prayed
for a declaration that he is an employee of the Department of
Telecommunications and he should be allowed the concessional
Telephone facilities as per the Circular dated 25.9.1998
(Annexure-3).

2. Respondents have filed counter opposing the prayer of applicant.

3. For the purpose of considering this Original Application it is not necessary to go into too many facts of this Case. According to the Applicant, he joined as a Medical Officer in the P&T Dispensary at Cuttack under the Department of Communications, Posts & Telegraph Board, New Delhi. His services were illegally terminated on 10.6.1973. Applicant challenged the illegal termination by filing Civil Suit which was allowed in his favour. Against that order, the Departmental Authorities went to the Hon'ble High Court in Appeal and which was rejected. Thereafter, the matter was carried to the Division Bench in an AHO which was also ultimately decided in favour of the applicant. By the time the litigation came to an end, applicant has already reached the age of superannuation in the year 1991. After the litigations were over, he had been given all the arrear financial benefits in 1992 and thereafter, he is getting pension. He has further stated that his wife was also appointed as a Medical Officer by the P&T Board in the P&T Dispensary, Cuttack in order dated 24.6.1968 (Annexure-2). She unfortunately passed away on 3.7.1988 and the applicant is in receipt of family pension on account of untimely passing away of his wife. It is stated that in the order at Annexure-3, the Department of Telecommunication granted certain concessional Telephone facilities to retired DOT employees. In this circular it has been stated that all employees permanent or temporary who has put in minimum 20 years or more continuous service in DOT or having their last posting in DOT for at least one year before retirement will be covered under the Scheme. It has also been provided

that the benefit will also be available to the spouse of the eligible employees who die in harness even before putting in 20 years of service or after the death of retired eligible employees. Applicant had written to the Departmental Authorities for getting the benefit allowed under Annexure-3 but did not get any reply. In the context of the above facts, applicant has come up in this Original Application with the prayer referred to earlier.

4. Respondents, in their counter, have stated that the applicant belongs to Postal Department and he has not filed any valid documentary proof in support of his claim of DOT employee. It is submitted that he is a pensioner of the Postal Department. It is further stated that the wife of the Applicant was never an employee of the DOT and on the above grounds they have opposed the prayer of applicant. They have also indicated that the representation of the applicant has been disposed of in order dated 20.8.1999 (Annexure-R/1).

5. We have heard Dr. Baishnab Charan Mohapatra, the applicant in person and learned Addl. Standing Counsel of other side. Petitioner has also filed written note of argument which has been perused.

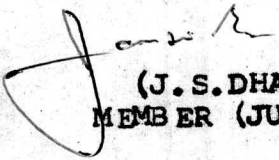
6. The order at Annexure-3 specifically provides that all employees who have put in 20 years or more continuous service in DOT or having their last posting in DOT for at least one year before retirement will be covered under the scheme. Applicant is a pensioner from 1991. He has stated that as he had joined in the combined Department of P&T initially, he must be taken as a pensioner of DOT. The

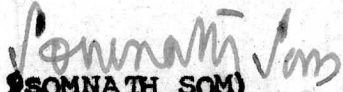

first condition mentioned in the order at Annexure-3 provides that person seeking concessional telephone facilities must have put in atleast 20 years of service in DOT or had worked at least one year in DOT before his retirement. In view of the circumstances in the service career of the petitioner he has been out of employment from 1973 and the period of service from 1973 to 1991 has been notionally counted and he has also been paid his arrear accordingly. These arrears had been paid to him by the Department of posts and he is also getting his pension from the Postal Department. It is submitted by the petitioner that all officers in the erstwhile P&T Department are getting their pension from the Postal Department and merely because he is getting pension from Postal Department, would not disentitle him for the concessional telephone facilities. As the applicant has been paid all the arrears from 1973 by the Postal Deptt, it is clear that he is all along been treated as an employee of the Postal Department. He can not, therefore, claim that he should be treated to have served the Deptt. of Telecom. during his service period. This contention of the petitioner is held to be without any merit and is rejected.

7. The other ground urged by the petitioner that his wife had worked as MO in P&T Deptt. from 1968 to 1988. She also can not be taken as an employee of the Telecom. Department which came into ~~existence~~ only from 1979. In view of this his prayer for getting the above concession on the ground of service of spouse in the Deptt. of Telecom. is also held to be without any merit and is

rejected.

8. In the result, we find no merit in this original Application which is accordingly rejected. No costs.


(J.S. DHALIWAL)
MEMBER (JUDICIAL)


(SOMNATH SOM)
VICE-CHAIRMAN 

KNM/CM.