

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.408 OF 1999
Cuttack this the 11th day of April/2002

Y. Prasad Rao ... 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

Manoranjan Mohanty
(MANORANJAN MOHANTY)

MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.408 OF 1999
Cuttack this the 11th day of April/2002

CORAM:

THE HON'BLE SHRI MANORANJAN MOHANTY, MEMBER (JUDICIAL)

...

Sri Y. Prasad Rao,
S/o. Late Y. Suryanarayana
At/PO-Kotapad, Dist-Koraput

...

Applicant

By the Advocates

Mr.P.K.Padhi

-VERSUS-

1. Union of India represented by it's Chief Post Master General (Orissa Circle) At/PO-Bhubaneswar, Dist-Khurda-751 001
2. Post Master General (Berhampur Region) At/PO-Berhampur, Dist-Ganjam (Orissa)
3. Sr.Superintendent of Post Offices, Koraput Division, At/PO-Jeypore, Dist-Koraput

...

Respondents

By the Advocates

Mr.S.B.Jena, A.S.C.

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL) : Heard Shri P.K. Padhi, Advocate for the Applicant and Shri S.B.Jena, Addl. Standing Counsel appearing for the Respondents and perused the records.

2. The applicant, who started his career as a Postman in the year 1973, was promoted to the cadre of Postal Assistant/Clerk on 21.10.1978 and he was due to cross the Efficiency Bar (E.B.) on 10.10.1984 in the pay scale/grade of Rs.260-8-300-EB-8-340-10-420-EB-12-480/- . Without allowing him to cross the E.B. on 1.10.1984, the Respondents allowed the applicant to draw his pay at Rs.300/- per month even after 1.10.1984. On 8.4.1985, the applicant was chargesheeted under Rule-14 of C.C.S.(CCA) Rules and by order dated

22.5.1985, he was punished; as a consequence of which his monthly pay was reduced (by two stages) from Rs.300/- to Rs.184/- without cumulative effect, as is seen under Annexure-1. By an order dated 16.11.1987, the applicant was allowed to cross the E.B. w.e.f. 1.10.1987 (instead of 1.10.1984) and by a subsequent order dated 30.11.1989 (Annexure-3) he was allowed to cross the E.B. w.e.f. 1.10.1988, instead of from 1.10.1987. I

In the present Original Application the applicant has prayed for a direction to Respondents to allow him to cross the E.B. w.e.f. 1.10.1984; because as on that date there was no departmental/criminal proceedings pending against him.

In order to substantiate his claim, the learned counsel for the Applicant relied upon the judgment rendered by the Hon'ble Supreme Court of India in the case of Union of India vs. K.V.Janaki Raman reported in 1993 (23) A.T.Cases 322, wherein it is laid down that consideration of case of an employee for promotion, Selection Grade, crossing of E.B. or higher scale of pay cannot be withheld merely on the ground of pendency of any preliminary inquiry/criminal investigation against him.

It is the case of the Respondents, as made out in the counter, that on the basis of the allegation made against the applicant, with regard to misappropriation of money, preliminary investigations were going on well before 1.10.1984 and ultimately chargesheet was issued to the applicant on 8.4.1985 and in the said premises,



The applicant was not allowed to cross the E.B. on 01.10.1984.

On the face of the judicial pronouncement of the Apex Court of India in the case of Janaki Raman (Supra) the objection of the Respondents, as raised in their counter, is bound to be overruled; because, preliminary investigation is not to throttle the crossing of E.B.; especially when the chargesheet was drawn against the applicant well after six months of the date on which the applicant was due to cross his E.B. On the face of this, the consequential orders issued on 16.11.1987 and 30.11.1989 vide Annexures-2 and 3 respectively, are bound to be quashed and it is so ordered. The Respondents are directed to allow the applicant to cross the E.B. in the pay scale/grade of Rs.260-8-300-EB-8-340-10-420-EB-12-480, raising his pay from Rs.300 to 308/- w.e.f. 1.10.1984 and to calculate accordingly the arrears and pay the differential amounts to the applicant by treating him to have crossed the E.B. from 1.10.1984, as directed above. This exercise should be completed within a period of four months from the date of receipt of copies of this order.

With the above observations and direction, the O.A. is allowed, but without any order as to costs.

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)
11/04/2002

B.K.SAHOO//