

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 648 OF 1999.
Cuttack, this the 4th day of January, 2001.

Rajayya Bosi. Applicant.

- VRS. -

Union of India & Ors. Respondents.

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)

LOMMAWATI S. SOMNATH SOM
VICE-CHAIRMAN-01

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ORIGINAL APPLICATION NO. 648 OF 1999.
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C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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SRI RAJAYYA BOSI,
Aged about 70 years,
Son of late P.Bosi,
Retired Inspector of Post Offices,
Postal Colony, Parlakhemundi-761200,
District-Gajapati (Orissa). APPLICANT.

By legal practitioner: IN PERSON.

- Versus -

1. Union of India represented by the Secretary, Ministry of Communications, Government of India, New Delhi-110 001.
2. The Director General Postal, Dakshin Bhawan, New Delhi-110 001.
3. The Chief Postmaster General, Orissa Circle, Bhubaneswar-751001.
4. The Postmaster General, Orissa Circle at Berhampur (Ganjam) PIN-761001.
5. The Superintendent of post Offices, Phulbani Division, Phulbani.
6. The Senior Superintendent of Post Offices, Koraput Division, Jeypore, Dist. Koraput-764001.

... ... RESPONDENTS.

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

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, the Applicant has prayed for a direction to the Respondents for payment of arrear increments for the period from 1.1.1980 to 31.12.1984 with interest and consequential pensionary benefits.

2. Respondents have filed counter opposing the prayers of the applicant. As after perusal of the records, we are of the view that the petition has to be partly allowed on the basis of the averments made by the Respondents in their counter, itself, it is not necessary to refer the averments made by the Applicant in his Petition and we are only recording the averments made by the Respondents in their counter. According to the Respondents, the petitioner entered the Department as Time Scale Clerk and was promoted to the cadre of Inspector in the scale of pay of Rs. 425-700/-. It is also stated that he was due to cross the E.B. in the above scale w.e.f. 1-1-1980 but as a proceedings were initiated against him by the Superintendent of Post Offices, Phulbani Division before the date he was due to cross the E.B., his case to cross the E.B. was not considered. He was awarded punishment of stoppage of one increment for six months in order dated 30.7.79 which was up-held by the Director of Postal Services in his order dated 24-8-1982. Respondents have stated that later this punishment was set aside by the Member(Administration) P&T Board in his order dated 30-8-1983 with a direction to initiate de novo proceedings against the applicant. It is stated by the Respondents that accordingly de novo proceedings were initiated and the applicant was awarded a punishment of Censure in order

dated 4-12-1984. It is further stated that another proceedings were initiated against the applicant in Memo dated 21-12-1979 in which the applicant was imposed with punishment of stoppage of one increment for a period of one year without cumulative effect. On appeal, the Director of postal Services, Bhubaneswar, reduced the penalty to one of stoppage of one increment for a period of six months without cumulative effect. Against this order, the applicant filed a Review Petition before the Member (Administration), P&T Board and his petition was rejected in order dated 30.6.1984. A copy of this order of Member (Administration) P&T Board is at Annexure-4. Respondents have stated that out of these two different proceedings in which the applicant was awarded with punishment in each case although the punishment awarded in one case has been set aside, the punishment awarded in another case remained valid and this stood as an obstacle for the fitness of the applicant when his case was taken up for consideration, from time to time, to cross the E.B. According to the Respondents, ultimately the applicant was allowed to cross the E.B. at the stage of Rs. 500/-. The relevant averments made by the Respondents in page-3 of the counter is extracted below:

"The applicant was considered to cross E.B. at the stage of Rs. 500/- in the scale of pay Rs. 425-15-500-EB-15-560-20-700/-w.e.f. 1.1.1984 and his pay in the scale was fixed at the stage of Rs. 620/- as on 1.1.1986, giving notional increase to his pay w.e.f. 1.1.1980, but without giving any monetary benefit from 1.1.1980 to 31-12-1983 as the applicant was not totally exonerated".

SJM

3. From the above it appears that in 1984, the applicant was allowed to cross the E.B. w.e.f. 1.1.1980 which is the due date and he was given notional increase of his pay

w.e.f. 1-1-1980 and his pay was fixed at the stage of Rs.620/- on 1.1.1986 but he was not given the actual monetary benefits from 1.1.1980 to 31.12.1983 as the applicant was not totally exonerated in the proceedings.

4. From the above recital of the averments made in the counter by the Respondents themselves, it appears that the applicant has been finally allowed to cross the E.B. from 1-1-1980. Therefore, the applicant can have no grievance with regard to he is not being allowed to cross the E.B. w.e.f. the due date. It is also seen that he was allowed the notional benefit of crossing the E.B. w.e.f. 1.1.1980 and actual benefit w.e.f. 1.1.1984. Applicant has asked for arrears from 1.1.1980 to 31.12.1984. In view of the above averments, it is clear that as he has been allowed the actual benefits from 1.1.1984 he can not claim any further benefit from 1.1.1984 to 31.12.1984. This prayer is accordingly rejected.

5. - Respondents have admitted that he was denied the actual benefit w.e.f. 1.1.1980 to 31.12.1983. Therefore, the sole question for consideration is whether while allowing the applicant to cross the E.B. w.e.f. 1.1.1980 it was lawful on the part of the Departmental Authorities not to allow him the actual benefit of higher pay after crossing the E.B. w.e.f. 1.1.1980 to 31.12.1983, while fixing his pay notionally w.e.f. 1.1.1980 .

6. As the lawyers have abstained from Court work we did not have the benefit of hearing the learned Additional Standing Counsel Mr.J.K.Nayak for the Respondents. Heard the petitioner, who is present in person and have perused the records.

J. Jm

7. The E.B. is allowed to a Government servant in a scale of pay attached to the post held by him. By crossing EB a Govt. servant continues to remain in the same scale of pay and in the same post crossing of EB does not involve assumption of any higher responsibility by the Govt. servant. In view of this, once the Departmental Authorities have allowed him to cross the EB w.e.f. 1.1.1980, there is no ground in logic or law to deny him the actual financial benefits, on the event of his crossing the EB from 1.1.1980 till 31.12.1983. This action of the Respondents can not therefore, be sustained. In the above paragraph of the counter quoted by us in extenso, Respondents have stated that the petitioner was not allowed the actual financial benefits because he was not totally exonerated in the Departmental proceedings. In one of the Departmental proceedings applicant has been censured and in another Departmental proceedings his increments have been stopped for six months without cumulative effect but obviously taking into consideration these punishments the Departmental Authorities have allowed him to cross the EB from 1.1.1980 and therefore, the fact that he has been given punishment in these two departmental proceedings can not be a valid ground for not allowing him the actual financial benefits from 1.1.1980. We, therefore, direct the Departmental Authorities to allow the petitioner the actual financial benefits of the fact of his crossing the EB from 1.1.1980 for the period from 1.1.1980 to 31.12.1983. The arrears should be calculated and paid to the applicant within a period of 60 (sixty) days from the date of receipt of a copy of this order.

S. J. M

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 8. The second prayer of applicant is for consequential pensionary benefits. From the above paragraph we find that the applicant has already been given the notional benefit of crossing the EB and therefore, his pay has been fixed notionally w.e.f. 1.1.1980 to 1.1.1986 taking into fact that he has crossed the EB at the stage of Rs. 500/- w.e.f. 1.1.1980. In view of this, allowing the financial benefits can have no effect in increasing the pensionary benefits and this prayer is held to be without any merit and is rejected.

9. The last prayer of the applicant is regarding payment of interest on the amount ordered by us. It is a fact that the applicant has retired in the year 1988 and he has been kept away from his legitimate dues for a long period of 12 years but we find that the applicant has approached the Tribunal only in the year 1999. In view of this, we hold that the prayer for payment of interest is without any merit. We however, direct that in case the payment of the amount directed by us is not made to the applicant within a period indicated by us, then interest at the rate of 12% per annum should be paid to the applicant from the date of expiry of the period of 60 days as indicated by us till the date of actual payment.

10. In the result, therefore, with the observations and directions made above, the Original Application is disposed of. NO costs.

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 (G. NARASIMHAM)
 MEMBER (JUDICIAL)

KN M/CM.

S. Somnath Som
 (SOMNATH SOM)
 VICE-CHAIRMAN