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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 371 OF 2001
Cuttack this the 16th day of Jan., 2002.

SRI SURENDRANATH BARIK. APPLICANT.

VRS.

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 ? ND

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 16/1/02

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ORIGINAL APPLICATION NO. 371 OF 2001
Cuttack, this the 16th day of January, 2002.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

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SURENDRANATH BARIK,
Aged about 53 years,
S/o. Late Jagabandhu Barik,
Vill./Post: Baruna, Via. Olavar,
DISTRICT: KENDRAPARA. ... APPLICANT.

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

: Versus :

1. Union of India represented through its
Chief Postmaster General, Orissa Circle,
At/Po: Bhubaneswar, Dist. Khurda-1.
2. Director of Postal Services,
O/O. the Postmaster General
(Sambalpur), At/Po/Dist. Sambalpur.
3. Estate Officer-Cum-Asst. Director (Ldg.)
O/O. the Postmaster General (Sambalpur),
At/Po/Dist. Sambalpur.
4. Senior Superintendent of Post Offices,
Sundergarh Division, At/Po/Dist. Sundergarh.

... RESPONDENTS.

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

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondent No. 3 not to pass any order of eviction of the quarters till settlement of his Subsistence Allowance and arrear salary and communication of the removal order. The second prayer is for a direction to the Respondents to pay Subsistence Allowance at the rate of 75%, after three months of suspension in the revised scale and arrear salary.

2. The case of the applicant is that he was appointed as Time Scale Clerk on 24-9-1969 and was working as Sub-Postmaster, Jalda Sub Post Office from 12-3-1992 till 17.9.1993. Applicant has stated that his younger brother suffered from Glioma Tuberculama (Brain disease) and passed away on 27.3.1995 and his entire family was a burden on the Applicant. He had also purchased a piece of land but later on it was found that fraud has been committed by the Vendor. Because of this, applicant lost his mental balance and became psychiatric patient. It is stated that on 17.9.1993, he was found missing. FIR was lodged by the wife of the applicant on 21.9.93 (Annexure-2). Applicant stated that the Departmental Authorities alleged that the applicant has committed some irregularity and a G. R. Case No. 391/97 u/s. 409 IP C was instituted against him in the Court of the Learned Additional Chief Judicial Magistrate, Rourkela in which the applicant was ultimately acquitted in the last

part of 2000. Applicant was placed under suspension w.e.f. 15.12.1997. It is stated that after he was acquitted, a Departmental Proceedings were started against him. The order dt. 27.2.1998 sanctioning Subsistence Allowance to him from 15.12.1997 is at Annexure-5. Applicant has stated that on 4-4-1998 he had represented for getting Subsistence Allowance at the rate of 75% but no action was taken by the Departmental Authorities on the said representation. It is stated that on 3.8.2001, applicant received a notice dt. 24.7.01 asking him to vacate the quarters in which he was residing. Applicant sent a reply at Annx. 7. He also moved the Director of Postal Service for an instruction to Senior Superintendent of Post Offices, to supply a copy of the removal order to him and pay Subsistence Allowance. In the context of the above, the Applicant has come up in this Original Application with the prayers referred to earlier.

3. Respondents in their counter have stated that while the applicant was working as Sub postmaster, Jaïda he committed mis-appropriation of different amounts and also kept shortage of cash to the tune of Rs. 21,500/- and odd. He was proceeded against under Rule-14 of CCS (CCA) Rules vide charge Memo dated 10.3.99. The matter was enquired into. Applicant admitted the charges before the Inquiring Officer whose report is at Annexure-R/2. At the conclusion of the Disciplinary Proceedings by order dt. 28.1.2000, applicant was awarded with punishment of removal from service. Respondents have further stated that the

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Applicant absconded from duty on 18.9.1993 when departmental enquiry on the above misconduct started. Subsequently, he was transferred and posted as Postal Assistant, Rourkela-7 Sub Office and while working as PA, Rourkela-7 Sub Office, he committed further money order fraud to the tune of Rs. 20,895/- for which, Criminal case was instituted against him and he was ultimately acquitted in order dated 29.9.1992. He was in police custody from 15.12.1997 for which he was placed under suspension. Applicant was allotted with a Staff qrs. at Rourkela on 26.7.1983. The order imposing the punishment of removal from service issued on 28.1.2000 could not be served on the applicant inspite of best efforts. The letter came back from his residential address with endorsement that he is not available. Sub Divisional Inspector(Posts), was directed and he tried to serve the removal order on the applicant during the day time as also at night but the applicant was also found absent and ultimately, the removal order was served by affixture in the presence of official witnesses. The Respondents have further stated that the allotment of the quarters to the applicant was cancelled in order dated 17.8.2000. The cancellation order also could not be served on him and could be served only by affixture. It is submitted that the applicant has not yet vacated the quarters nor has he paid the house rent, Elect. water and Conservancy charges, due on account of which comes to more than Rs. 42,000/-. In the context of the above, the Respondents have opposed the prayer of applicant.

4. I have heard Shri Padhi, learned Counsel for the Applicant and Shri A.K. Bose, learned Senior Standing Counsel

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appearing for the Respondents and perused the records.

5. In this Original Application, the applicant has not made any grievance with regard to the disciplinary proceedings against him. His grievance is with regard to non-increase of Subsistence Allowance and with regard to the direction to him to vacate the quarters. These two matters can be considered by a **Single** Bench. At the time of hearing Learned Counsel for the applicant produced an order dated 23.10.2001 issued by the SSPO, Sundergarh. In this order, the subsistence Allowance was increased by 50% of the subsistence Allowance already sanctioned on completion of first three months of **suspension** along with Dearness Allowance on that. It is submitted by Learned Sr. Standing Counsel that as this document has been produced, at the time of hearing, he is not in a position to vouch for its authenticity. It is submitted by Shri P.K. Padhi, learned Counsel for the applicant that even though the order has been passed on 23.10.01, no payment has yet been made. Learned counsel for the applicant wants a direction to be issued to the Respondents to make payment in terms of this order dt. 23.10.2001 within a period of seven days. I have considered the submissions of both sides carefully. Applicant has been removed from service in January, 2000 and has remained in the quarters for more than **two** years. In view of this, I direct that in case the order dt. 23.10.2001 as produced by learned counsel for the applicant, at the time of hearing with copy to other side, is genuine then the amount to which the applicant will become due should be paid to the applicant within a period of one month from

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today. It is however, made clear that within the period of one month, the applicant will vacate the quarters and the amount to which he is entitled to shall be paid to him only after the quarters are vacated.

6. It is submitted by learned counsel for the applicant that against the order of removal which has recently been served on him, he has filed an appeal which is pending. It is submitted that the petitioner may be given liberty to agitate his grievance with regard to the order, if any to be passed by the Appellate Authority. The above prayer is granted subject to the law of limitation.

7. So far as the other prayers of the applicant and the prayer in the MA, the same are not pressed and accordingly it is not necessary to pass any order in respect of these prayers.

8. The Original Application is disposed of as above but without any order as to costs.

S. Somnath Singh
(SOMNATH SINGH)
VICE-CHIEF MAN

KNM/CM.