

①

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

ORIGINAL APPLICATION NO. 542 OF 2001
Cuttack this the 20th day of Sept' 2004

Rabindra Behera ... Applicant(s)

- VERSUS -

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? No
2. Whether it be circulated to all the Benches of
the Central Administrative Tribunal or not ? No

20/09/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. SGM
(B.N. SGM)
VICE-CHAIRMAN

(2)

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 542 OF 2001
Cuttack this the 20th day of Sept. 2004

CORAM:

THE HON'BLE SHRI B.N. SQM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)
...

Rabindra Behera, aged about 42 years,
Son of late Sikhuli Behera - at present
working as Postal Asst., Chhatrapur Head
Post Office, District-Ganjam - residing
at Village-Gajapatnagar, P.S. Rambha
District-Ganjam

...

Applicant

By the Advocates

M/s. P.K. Mishra
S.K. Dash

- VERSUS -

1. Union of India represented through Secretary
Department of Posts, Dak Bhawan, New Delhi
2. Chief Post Master General, Department of Posts,
Bhubaneswar
3. Senior Superintendent of Post Offices,
Bhubaneswar (East Division) District-Ganjam

...

Respondents

By the Advocates

Mr. B. Dash, A.S.C.

- - - - -
O R D E R

MR. B.N. SQM, VICE-CHAIRMAN: This Original Application,
under Section 19 of the A.T. Act, 1985, has been filed by
Shri Rabindra Behera (applicant) at present working as
Postal Assistant (in short P.A.) Chhatrapur Head Post
Office, with the following prayers :

- i) to pay the bonus amount which is due
to the applicant for the period 1986-
87 to 1996-97;
 - ii) to regularise the leave period of the
applicant in between the period 1986-87
to 1996-97 which period the applicant
was placed under suspension;
- 2

- iii) to sanction the leave of the applicant for the period 12.10.2000 to 22.10.2000 (11 days), 1.11.2000 to 6.11.2000 (6 days) 6.2.2001 to 13.2.2001 (8 days) 15.3.2001 to 25.3.2001 (14 days) and to pay the salary for the said period within a stipulated time; and
- iv) to give promotion to the applicant to the post of Senior Assistant with effect from June, 1999 on completion of 16 years of service which has become due to him on time bound one promotion basis.

2. The facts of the case in brief are that the applicant while working as Postal Assistant in Paralakhemundi Head Post Office, was placed under suspension as he was detained in police custody for more than 48 hours on 22.1.1987. He was an accused in a criminal case bearing T.R.No.934 of 1987. However, he was convicted and sentenced to imprisonment by the Trial Court vide its order dated 21.7.1990, against which he filed an appeal before the Court of Additional Sessions Judge, who, on consideration of the appeal, was pleased to allow the same and set aside the order of conviction and sentence, by holding that the prosecution had failed to prove entrustment of Govt. money to him (applicant) and acquitted him from all the charges, vide order dated 16.11.1990. Thereafter, the Department moved the matter before the Hon'ble High Court of Orissa in Criminal Revision No.9 of 1991 and ultimately the said criminal revision petition was dismissed vide judgment dated 23.4.1997 of the Hon'ble High Court. It is thereafter, the Respondents-Department vide order dated 7.7.1997 revoked the order of suspension by directing the applicant to join as Postal Assistant at Chhatrapur Head Office.

It has been stated by the applicant that he made several representations for payment of arrear salary and consequential service benefits and his prayer having not been responded by the Respondents, he moved the Tribunal in O.A. No.659/98. The Tribunal, in consideration of the interim prayer, directed the Respondents to pay the arrear salary to the applicant within a period of two months from the date of receipt of the order and at the same time granted liberty to the applicant to exercise his option with regard to the revised scale of pay as per rules. It has been submitted by the applicant that the Respondents, apart from complying with the aforesaid interim direction of this Tribunal, issued memorandum dated 13.4.1999 to him to hold an inquiry on the alleged misconduct and misbehaviour, by framing articles of charges and calling upon him to submit the written statement of defence. It is in this background, the applicant approached the Tribunal in O.A. No.182/99. The Tribunal while disposing of the said O.A. vide its order dated 15.12.1999 quashed the disciplinary proceeding/charge levelled against the applicant. It has been submitted that since the interim direction of this Tribunal in O.A.No.659/98 was not complied with by the Respondents, he moved the Tribunal in C.P.12/2000, whereafter an amount of Rs.1,91,402/- was paid to the applicant towards differential salary on 8.5.2000. However, the Respondents having not settled his consequential service benefits, as referred to above, the applicant has moved this Tribunal in the present O.A. for redressal of his grievance.

2. The Respondents-Department have filed their

h

counter-reply by opposing the prayers of the applicant.

3. We have heard the learned counsel for the parties and perused the materials placed on record.

4. Admittedly the applicant has been paid due amount towards his pay and allowance for the period from 3.1.1987 to 14.3.1997 during which period he was placed under suspension. It is the stand point of the Respondents that this Tribunal, by its orders dated 17.5.2000 in O.A.No.659/98 and dated 7.9.2000 in C.P.12/2000 held that "in case the applicant has any claim with regard to payment of P.L. bonus that is a separate cause of action" and therefore, it has been submitted by them that the applicant is not entitled to P.L. bonus and in the circumstances, the O.A. is liable to be dismissed. With regard to applicant's claim for regularisation of leave and grant of promotion, the Respondents have submitted that the same would be settled on receipt of leave at credit certificate and after holding a Departmental Promotion Committee respectively.

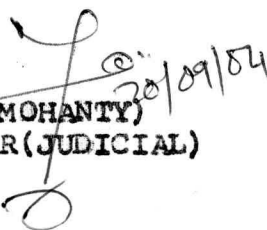
5. With regard to P.L. bonus as claimed by the applicant, we are of the considered view that since we have on an earlier occasion in O.A.No.654/98 held that this is a separate cause of action, we grant liberty to the applicant to submit a representation before the competent authority in the Department in this regard and in the event such a representation is filed, the Respondents are hereby directed to pass a reasoned and speaking order thereon within a period of 60 days from the date of receipt of such representation.

6. In so far as regularisation of his leave

✓

period is concerned, we have taken note of the submissions made by the Respondents. However, much time has passed since the counter was filed by the Respondents on 27.12.2002 and during hearing of this case, the learned Addl. Standing Counsel could not apprise us as to whether the leave period(s) of the applicant has/have been regularised by now. We, therefore, direct the Respondents to settle the matter within a period of 60 days from the date of receipt of this order, if not the leave period(s) of the applicant has/have been regularised already. Similarly, a review D.P.C. for considering his case for financial upgradation under T.B.O.P. scheme or anyother such scheme should be considered within the period as stipulated above.

7. With the observation and direction as made above, we dispose of this O.A. No costs.


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

BJY