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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. NO. 156 of 2002

Bipin Bihari Pattnaik. ... Applicant.

-Vs.-

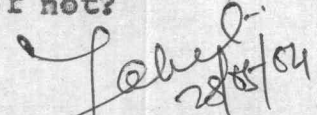
Union of India & Ors. ... Respondents.

Date of decision:

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK

O. A. No. 156 of 2002;

PRESENT: THE HON'BLE MR. B. N. SOM, VICE-CHAIRMAN
THE HON'BLE MR. MANORANJAN MOHANTY, Member (J)

...

Bipin Bihari Pattnaik, ... Applicant.

-Versus-

Union of India & Ors. ... Respondents.

For the Applicant : M/s. B. S. Tripathy-1, Counsel.

For the Respondents: Mr. B. Pal & Mr. D. N. Mishra, Counsel.

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Date of decision: 28.05.04

O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):

Applicant, while working as Assistant Station Master at Kuhuri Railway Station, was inflicted with the punishment (of reduction of pay to the lower stage, for a period of 15 years) at the conclusion of a disciplinary proceedings (that was initiated against him during 1985) and had approached this Tribunal (challenging the said order of punishment) in O. A. No. 530 of 1994; which was disposed of by this Tribunal on 28th of June, 1999 with the following directions:

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"In the result, we quash the disciplinary proceeding as well as orders of punishment imposed on the applicant and direct the respondents to give consequential service benefits, if any, as well as financial to the applicant within a period of 90 (ninety) days from the date of receipt of this order".

After the orders of this Tribunal, the Applicant was given the benefits of promotion etc. retrospectively with effect from the date when his juniors promoted to the higher grade, notionally and actual benefits in the said higher grade was allowed from the date he actually shouldered the higher responsibility under Annexure-3 dated 17.7.2000; which is the subject matter of challenge in the present Original Application under section 19 of the Administrative Tribunals Act, 1985 claiming the actual financial benefits retrospectively.

2. Respondents, by filing counter, have disclosed that in compliance of the orders of this Tribunal, the case of the Applicant was processed and he was given promotion to the next higher post from the date when his junior was promoted and accordingly, as per the Rules, he was allowed proforma promotion (w.e.f. the date his immediate junior was promoted to the said grade) and the actual monetary benefits w.e.f. the date of his actual ~~been granted~~ promotion, ~~having~~ /, there is nothing wrong in the order of promotion under Annexure-3 which needs no interference.

3. Heard learned counsel for the parties and perused the materials placed on record.

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4. By placing reliance of the judgment rendered by the Hon'ble Supreme Court of India in the case of UNION OF INDIA VRS. K.V. JANKIRAMAN (reported in AIR 1991 SC 2010), learned Counsel for the Applicant has submitted that since (in the earlier O.A.) the Disciplinary proceedings (that was initiated against the Applicant) was quashed, there was no impediment on the part of the Respondents to grant him full benefits (as arrears) with effect from the date he was given promotion retrospectively in pursuance of the orders of this Tribunal. By drawing our attention to the relevant portion of the said judgment, it was submitted by the learned counsel for the applicant that even though he was not at fault and was willing to take the higher responsibility; by some how or the other, he was kept out of the benefit and since there was no fault on his part, he is entitled to get all the financial benefits as ordered by this Tribunal.

5. The short point for consideration is as to whether the orders of this Tribunal rendered on 28.6.1999 in earlier O.A.No.530 of 1994 has been complied with by the Respondents with its letter and spirit and as to whether, as per the judge-made-laws relied upon by the Applicant, the Applicant is entitled the full financial benefits retrospectively.

6. In order to reach the conclusion, we would like to refer to the relevant portion of the judgment of the Hon'ble Supreme Court of India rendered in the case of

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Union of India Vs. K.V. Jankiraman (supra) which reads as under:-


"XXX. The normal rule of "no work no pay" is not applicable to such cases; where the employee, although he is willing to work, is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons although the work is offered to him".

We have also seen in the present case that it is not the case of the Respondents that although he was entrusted with the higher responsibility, he did not work. Rather, he was kept out (of discharging duties) in the garb of the proceedings; which, ultimately was quashed by this Tribunal as stated earlier. It is also a fact that the Respondents have implemented the orders of this Tribunal without challenging the same before any higher forum nor by seeking review. Since the Respondents have implemented the orders, there is no reason to deny the actual financial benefits to the Applicant; especially when it was specifically ordered.

7. In the above view of the matter, we have no hesitation to hold that the Applicant is entitled to the Full wages/salaries from the date when he was given promotion retrospectively under Annexure-3; which should be calculated and paid to the Applicant within a period of thirty days hence. In the result, this O.A. is allowed.

No costs.


(B.N. SOM)
Vice-Chairman


(MANORANJAN MOHANTY)
Member (Judicial)