

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.552 of 2004
Cuttack, this the 6th day of May, 2005

Subodh Chandra Padhi

..... Applicant

-VERSUS-

Union of India & others

..... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not ? MS
2. Whether it be circulated to all the Benches of the CA^{Y8} Central Administrative Tribunal or not ?

Subodh Chandra Padhi
(M.R. MONANTY)
MEMBER (JUDICIAL)

B.N. Sompalli
(B.N. SOMPALLI)
VICE-CHAIRMAN

V
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.552 of 2004
Cuttack, this the 8th day of May, 2005

CORAM:

MON'BLE SNRI B.N.SOM, VICE-CHAIRMAN

AND

MON'BLE SNRI M.R.MOMANTY, MEMBER (JUDICIAL)

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Shri Subodh Chandra Padhi, aged about 62 years, S/o. Late Gaya Ram Padhi, at/P.O.-Kamara, Dist. Balasore.

..... Applicant

Advocates for the applicant

..... M/s. N.Sarkar &
S.Dasmohapatra

Versus-

1. Chief Post Master General, At/P.O./P.S.-Bhubaneswar,
Dist-Khurda.
2. Superintendent of Posts, Balasore Division, Balasore,
At/P.O./P.S./Dist-Balasore.
3. Post Master, Jaleswar Head Post Office, At/P.O./P.S.-
Jaleswar, Dist-Balasore.

..... Respondents

Advocates for the Respondents

..... M/s. U.B.Mohapatra,
(R.No.1 to 3)

Q R D E R

SNRI B.N.SOM, VICE-CHAIRMAN: This O.A. has been filed by Shri Subodh Chandra Padhi being aggrieved by the inaction on the part of the Respondents in not refunding to him the amount of Rs.7,600/- deposited by him on 8.10.1994

under Un-Classified Receipt (UCR in short) to make good the loss of cash remittance made from Dhamunda Sub-Post Office to Jaleswar Head Post Office and delay in regularization of the period of his suspension affecting his promotions to higher grades, ^{and} from the delay in fixation of his pay in the revised scale with effect from 1.1.96. By filing M.A.No.233/05 dtd.5.5.05, he has also prayed for direction to be issued to the Respondents to pay him all the arrears of salary as stated in the O.A. alongwith 12% interest per annum thereon as also on the amount of Rs.7,600/- yet to be refunded to him.

2. The case of the applicant, shorn of details, is that while he was working as sub-post master at Dhamunda Sub-Post office he had made a remittance of Rs.10,000/- on 10.5.1994 to Jaleswar Head Post Office. But on opening of the said bag containing the remittance at the Head Post Office an amount of Rs.7,600/- ^{was} _{had} found short. Consequently, the Assistant Superintendent of Post offices, on instruction, lodged an F.I.R. before the Bhagarai Police Station on 19.4.94 and he was placed under suspension with effect from 26.5.94. He was also directed by the Res.No.2 to deposit the loss amount of Rs.7,600/- under UCR before he could be reinstated. Initially, he refused to comply with the same direction but on 8.10.94 he actually deposited the said amount as per direction of Res.No.2 vide his letter dtd.24.8.94, whereupon he was reinstated on 13.12.98. However, he was again placed under suspension on 10.1.95 on the ground that he was detained in police custody for

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more than 48 hours in pursuance of the P.I.R. dtd. 19.5.94. Although he was set on bail after 48 hours, Res. No. 2 kept him under suspension till 14.9.97 and even though he was reinstated, his suspension period was not regularised nor was he paid according to the revised pay-scales introduced for central Government employees with effect from 1.1.96. He retired from service w.e.f. 30.9.82 and he was assured that his service benefits would be paid after finalisation of the court case. The Court case, G.R. Case No. 147/94, concluded on 18.8.93 with the Ld. Court giving him acquittal of the charges. Thereafter, he had been ^{representing} ~~represented~~ before the Respondents for settlements of his service benefits including refund of the amount of money deposited by him but without any success. Being aggrieved, he has come before us for redressal of his grievances in this O.A.

3. The facts of the case are not in dispute. The Respondents by filing a detailed counter have also admitted that the service benefits as admissible to the applicant have not yet been finalised excepting that the order treating his period of suspension as duty for all purposes had been issued by Res. No. 2 on 30.9.94. They have, however, contested the O.A. on two grounds; firstly, that the applicant having credited the amount of less of Rs. 7,600/- to the Government 'without grumbling/on his own volition' was not entitled to any refund. They have argued that had he felt so sure about his innocence, he could have represented to the competent authority for consideration of his representation in the matter instead of crediting the amount.

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Secondly, that the grievance raised by the applicant in the O.A. regarding non-payment of backwages, promotion, fixing pay in the revised pay-scales etc., required to be done in consultation with various authorities and after referring to various relevant records located in different offices and therefore it would 'take more time' in completing the process.

4. We have heard the Ld.Counsel for the rival parties and have perused the records placed before us.

5. No complicated question of law is involved in this case. The facts of the case are also not in dispute. The applicant, however, has alleged that he was forced to deposit the amount of Rs.7,600/- lost from the cash bag. He has referred to the letter dtd.24.8.1994 issued to him by Res.No.2 (Annexure-2) in this connection to prove that he was forced to deposit the said amount to secure his reinstatement in service. The Respondents, on the other hand, have submitted in the counter that the applicant had credited the amount 'without any hesitation'. However from perusal of the letter at Annexure-2 dtd.24.8.94, we have no doubt that the Respondents were making a wrong submission. We, therefore, feel it necessary to quote the relevant portion of the letter dtd.24.8.94 to set the dispute at rest:

"Inspite of that your petitions were taken into consideration and you were asked to arrange credit of the amount of less of Rs.7,600/- to Government under Unclassified receipt vide this office letter of even number dtd.28.6.94 to 4.8.94 to facilitate the completion of investigation and for consideration of your re-instatement."

In the face of such a clear cut communication, we are

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surprised to note that the Respondents have taken an exactly opposite position in the counter reply. That does not look proper on the part of the Respondents, we, therefore, find it necessary to deprecate such wrong statement on the part of the Respondents. We are also not impressed at the submission put forth by them in the second part of para -6 of the counter; wherein they have taken the stand that the settlement of service benefits 'will take more time'. We are unable to accept such submission on the ground that it is vague and exhibits lack of concern for the applicant; that the criminal case ended in acquittal of the applicant on 18.3.93 and that is after two and half years of the conclusion of the matter, they have not been able to settle his dues. It is also ^{affirm} ~~sure~~ that they are unaware that the applicant had retired in the meantime way back in September, 2002, that is, about three and half years back. The applicant has, in his own way, submitted before us his case of sufferings and deprivation since 1994 when he stated that he was placed under suspension for the second time in January, 1995 as he was detained ~~not~~ more than 48 hours in police custody and that suspension lasted for more than two and half years, that is upto 14.9.97 although he was set on bail after 48 hours. No answer is forthcoming from the Respondents in the counter to justify their action of keeping him under suspension for two and half years. In conspectus of this case, we have no doubt that in the matter of handling of the case of loss of Rs.7,600/- from the cash bag sent from Dhamunda Sub-post office, the Respondents have shown mindlessness, capricious and colourable

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use of power and such conduct would only result in demotivating and demoralising the unfortunate post masters, if they are punished merely on suspicion and conjecture. Such tendencies are wholly counter productive for the purpose of administration and must be decried, and not only decried but the Respondents must be called upon to reappraise their conduct to manage their affairs better. We are aware that the Respondent Department deals with cash and valuables for the public and for this purpose they require in their department people of impeccable character and honesty. However, it is also to be realised by them that their officials, like the applicant in handling public money and valuables are constantly exposed to the hazards like fraud and other mischiefs and therefore in the event of any fraud or less taking place, they should have immaculate system of determining whether the official was a victim of fraud, or it is he who had committed the fraud. In case the official was a victim of fraud, surely he should not be put to the sword. In this case, of loss of cash from the cash bag, the admitted fact is that the preliminary investigation could not locate the responsibility center for the loss and therefore the Res. No. 2 decided to register a police case to find out the culprit. It is true the police had taken the post master concerned i.e., the applicant, to their custody and he was set on bail after 48 hours for which under Rule 10 of CCA (CCA) Rules he was suspended. As the official was set on bail from the police custody and that period being more than 48 hours under Rule 10 (2), he was deemed to have been placed under suspension and appointing authority was entitled

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to issue ~~an~~ such order to that effect. However, in terms of Rule 10 (5) (b), the disciplinary authority could have ^{Continued} confirmed his suspension only if any disciplinary proceeding was initiated against him. Admittedly no such action was initiated against him. It is also a fact, as we have observed earlier, the Respondents in the counter reply have not given any justification as to why the applicant was under suspension for over two and half years under Rule 10. We, have, therefore, no hesitation to accept the plea of the applicant that he was kept under suspension from January, 1995 to 14th September, 1997 out of vindictiveness on the part of the Respondents calling for judicial intervention.

6. Having regard to the above aspects of the case, we have no hesitation to say that the applicant has been a victim of caprice~~ous~~ and arbitrariness in the hands of the Respondents. The way he was kept under suspension, the way they have explained the reasons for delay in settling his claims/service benefits speak of their inefficiency and mindlessness. Having regard to the fact that the applicant had suffered more than he deserves during the concluding period of his service career and that he is suffering more after his retirement from September, 2002 when he is living only ~~in~~ provisional pension, we hereby direct the Respondents to shake off all lethargy and come to ameliorate the sufferings of the applicant by settling his dues in the following manner:

(a) All his claims/service benefits, as due and admissible, namely, payment of pay and allowances on revised scales of pay, less subsistence 2

allowance already paid to him, DCR gratuity, leave encashment, commutation of pension and Rs.7,600/- which he was directed to deposit and any other dues as admissible.

- (b) The said benefits be paid to him within a period of 90 days from the date of receipt of this order.
- (c) As his suspension for the period from 14.1.95 to 14.9.97 was wholly unjustified and there has been inexplicable delay in settlement of his dues;
- (d) To pay interest at the rate of 12% from 19.8.93, the day he was acquitted by the criminal court.

7. In this effect this O.A. succeeds. No costs.

Leave
objection

(M.R. MONANTY)
MEMBER (JUDICIAL)

Sub.
B.N. SOM 4/2/97
VICE-CHAIRMAN

SAN/