

O.A.NO. 1304 OF 2004

6
ORDER DATED 26-07-2005.

On careful consideration of whatever materials placed on record and after hearing the Applicant in person; Shri N.R. Routray, learned counsel engaged as amicus curie, and Mr. U.B. Mohapatra, learned Senior Standing Counsel appearing for the Respondents-Department, we have found that the Applicant, a GDS Post Master, faced a Criminal Proceeding instituted by the C.B.I. and was placed under 'off duty' and having been convicted by the Trial Court, he was dismissed from service and, his Criminal appeal having been allowed, the Applicant had to face a de novo trial; which has again been culminated with conviction.

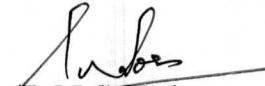
2. Since the dismissal order was passed basing on the earlier conviction order, which was set aside in a criminal appeal, the Applicant was to get the limited relief of shifting of his date of dismissal from service till his conviction after de-novo trial.

Since the very basis of the dismissal order stood removed, (by the Appellate order in the Criminal Appeal) in all fairness of thing, the said dismissal order needs to be shifted to a future date i.e. to the date when fresh conviction order was passed on retrial and the intervening period, for ends of justice and equity, ought to be treated as a period of suspension/off duty and, in that event the Respondents ought to pay the arrears of ex-gratia/put off duty allowance (for the extended 'off duty' period) expeditiously; by making all verifications.

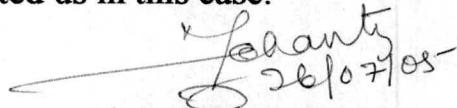
3. In the above premises, we direct the Respondents to appropriately shift the date of dismissal of the Applicant and to pay him the extra/put off duty allowances (for the intervening period) within a period of 90 (ninety) days from the date of receipt of a copy of this order.

4. With the above observations and directions, this Original Application under section 19 of the Administrative Tribunals Act, 1985 stands disposed of.

5. Send copies of this order to the Respondents and Applicants in the addresses given in this O.A. Free copies of this order be also handed over to the counsel associated us in this case.


(B.N.SOM)

VICE-CHAIRMAN


(M.R.MOHANTY)

MEMBER (JUDICIAL)

Copies of order
Dt 26/3/08 issued
to counsel for both
sides.


19/05