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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.69 OF 2005
Cuttack this the 31st day of March, 2006

Harish Chandra Nayak... Applicant(s)

-VERSUS-

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

FOR INSTRUCTIONS

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


**(B.PANIGRAHI)
CHAIRMAN**

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.69/2005

Cuttack this the 31st day of March, 2006

CORAM:

HON'BLE MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN

Sri Harish Chandra Nayak, 61 yrs. S/o. late Baman Nayak, At/PO/PS-
G.Udayagiri. Dist-Kandhmal (Phulbani)

By the Advocates :

...Applicant
Mr.P.K.Padhi

-VERSUS-

1. Union of India represented by it's Director General of Posts (Dak Bhawan), Sansad Marg, New Delhi-110001
2. Chief Post Master General (Orissa Circle), At/PO-Bhubaneswar, Dist: Khurda-751001
3. Superintendent of Post Offices, Phulbani Division, At/PO-Phulbani, Dist-Kandhmal (Phulbani)-762001
4. Sub Divisional Inspector (Postal) Baliguda Sub Division, At/PO-Baliguda, Dist-Kandhamal-762103

By the Advocates:

...Respondents
Mr.U.B.Mohapatra, SSC

ORDER

MR.JUSTICE B.PANIGRAHI, THE CHAIRMAN:In this

case the applicant has claimed for the following relief:

“...to give direction to Respondents to pay minimum pension/compassionate pension/proportionate pension to the applicant taking into consideration his 39 years and 4 months of service to the department

And in the alternate direct the Respondents to allow the applicant for another 5 years as an EDA, GDS employee in the department”.

2. It is the case of the applicant that he was appointed as E.D.Night Watcher of G.Udayagiri Sub Post Office with effect from 29.2.1964. After abolition of such post he was accommodated

in the post of E.D.Messenger in the same post office and accordingly an order of appointment was issued on 17.3.1964. In course of his service he was promoted to the post of Group-D vide order dated 22.8.1994/15.9.1994. He continued in the aforesaid post till his retirement, i.e., 30.6.2003. The authorities refused to give him pension on the ground that he worked in Group-D post for a period less than 10 years. But all other retirement benefits of the applicant have been released in his favour.

3. The Respondents have filed their reply by controverting the applicant's allegation. They have submitted that the applicant could not have been granted pension because he had only worked for a period of 8 years 7 months and 20 days, which is less than 10 years. They have excluded the period of service of the applicant as E.D. Agent. It is not understood how they have excluded the previous service to make him ineligible to get the pension. Mr.Mohapatra, the learned counsel appearing for the Respondents brought to my notice a circular under Annexure-R/13(A) which reiterates that a permanent employee having less than 10 years as qualifying service shall not be eligible for pension. On a close reading of the said circular nothing turns out as to how the previous service of the applicant as E.D.Agent shall be computed for the purpose of pension. In Para-8, it has been stated as follows :

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"Compassionate allowance on dismissal or removal, sanctioned by the Competent Authority in a case deserving of special consideration. This is also pension but the amount should not exceed two-thirds of pension or gratuity or both, which would have been admissible to him if he had retired on compensation pension".

4. On a close reading of Rule-8, it is gathered that even dismissed or removed employee is eligible for compassionate allowance/pension. If that be so, it is not understood as to why an employee who has rendered about 10 years of service should not get such allowance/pension. But however, it is left open to the Respondent- Department to take such a decision in this regard.

5. Accordingly, I direct the Respondent No.2 to take a decision in this regard by treating this application as a representation of the applicant within four months from the date of communication of this order. The applicant is further asked to communicate a copy of this application and upon receipt of the same, Respondent No.2 shall treat such application as representation of the applicant and dispose it of in the light of the observation made above.

The O.A. is disposed of accordingly. No costs.

B. Panigrahi
(B.PANIGRAHI)
CHAIRMAN