

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 94 OF 2002
Cuttack this the 02nd day of Sept' 2004

Bhakta Batsal Rout ... Applicant(s)

- VERSUS -

Union of India & Ors. ... 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 ? YES

(M.R. MOHANTY)
MEMBER (JUDICIAL)

(B.M. SONI)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 84 OF 2002
Cuttack this the 02nd day of Sept' 2004

CORAM:

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

Sri Bhakta Batsal Rout, aged about 42 years
Son of Hageswar Rout, resident of Vill-Kanti
P.O-Sarasada, P.S. Bhandaripokhari, Dist-Bhadrak
at present employed as Section Holder, in the
Office of Manager, Postal Printing Press, Mancheswar
Bhubaneswar-16, Dist-Xhurda

... **Applicant**

By the Advocates

R/s.K.G.Kanunge
S.Behera

- VERSUS -

1. Union of India represented through Secretary
to Government of India, Department of Post,
Dak Bhawan, New Delhi-1
2. Chief Post Master General, Orissa Circle,
Bhubaneswar, Dist-Xhurda
3. Manager, Postal Printing Press, Bhubaneswar,
Mancheswar Industrial Estate, Bhubaneswar-16,
Dist-Xhurda

... **Respondents**

By the Advocates

Mr. A.K.Bose, SSC

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QUESTION

MR. B.N. SON, VICE-CHAIRMAN: This Original Application,
under Section 19 of the A.T. Act, 1985, has been filed by
shri Bhakta Batsal Rout (applicant) at present working
as Section Holder in the office of Respondent No.3 at
Bhubaneswar, wherein he has prayed for direction to be
issued to Respondents to fix his scale of pay in the
post of Section Holder taking the period from 3.12.1991
to 7.10.1996 (period of officiation in the post of
Section Holder) to consideration by granting increments

and other entitled benefits in terms of pay fixation rules and instructions on the subject.

2. This is the 2nd round of litigation by the applicant on the self same issue. He had earlier come before this Tribunal in O.A. No. 741/97, with the grievance that he was asked to manage the post of Section Holder (Binding) from 3.12.1991 to 7.10.1996 and subsequently promoted to the grade of Section Holder (Binding) on 5.10.1996. Although he was asked to manage the office without extra remuneration, he approached this Tribunal on the plea that he was entitled to scale of pay of the higher post with necessary allowances from 3.12.1991 to 7.10.1996. This Tribunal, after hearing both the parties and after going into the facts of the case, based on the ratio of Silva Raj case (reported in AIR 1998 SC 838) held that the applicant was entitled to financial benefits under P.R. 49(1) and accordingly directed the Respondents to pay the applicant differential pay so admissible under the rules for the period from 3.12.1991 to 7.10.1996. On the same facts the applicant has now come before this Tribunal again seeking relief as stated above.

3. We have heard the learned counsel for the parties and perused the materials placed before us.

4. Respondents-Department have strenuously opposed the prayer of the applicant on the strength of the judgment dated 5.2.2001 passed by this Tribunal in O.A. No. 741/97 (referred to earlier. We see considerable force in the contention of the Respondents that by our order dated 5.2.2001 in the aforementioned O.A., we have finally adjudicated the grievance of the applicant

with regard to compensation to which he is entitled for managing the work of Section Holder (Binding) in addition to his own duties as a Binder, Sr.I. In the earlier O.A. the applicant had prayed for two reliefs; firstly, to give him the benefit of PR 49(1) and to grant him the benefit of higher scale from 3.12.1991 when he was asked to manage the work of Section Holder. In our judgment (at Para-7 of the earlier O.A.) we have observed " during hearing prayer No.2 was not pressed". Further, we had ordered as follows :

"We make it clear that the applicant cannot be treated as promoted to the post of Section Holder (Binding) during this period (3.12.1991 to 7.10.1996)".

As the claim of the applicant for grant of pay scale of Section Holder is feasible only if it could be shown that he was promoted to that post with effect from 3.12.1991, we have already given our findings in the earlier O.A. that there was no question of treating the applicant having been promoted to the post of Section Holder during the relevant period. As we have already adjudicated the matter of promotion in the earlier O.A., this O.A. ipso facto is hit by the principles of constructive res judicata and hence we dismiss the same, leaving the parties to bear their own costs.

M. Mohanty
(M.R. MOHANTY)
MEMBER (JUDICIAL)

BJY

R. Mukherjee
(B.N. MUKHERJEE)
VICE-CHAIRMAN