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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK**

**ORIGINAL APPLICATION NO.569 OF 2002**  
Cuttack, this the *10th* day of April, 2003

Raghunath Mohanty ..... Applicant

Union of India & Others ..... Respondents.  
Vrs.

**FOR INSTRUCTIONS**

1. Whether it be referred to the Reporters or not ? 73
  
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? 73

*For*  
*10/04/03*  
~~(M.R. MOHANTY)~~  
MEMBER (JUDICIAL)

*For*  
~~(B.N.SOM)~~  
VICE-CHAIRMAN

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**ORIGINAL APPLICATION NO.569 OF 2002**  
**Cuttack, this the 10th day of April, 2003**

**CORAM:**

**HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN**

**&**

**HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)**

Raghunath Mohanty, aged about 72 years, ( as per Dept. ), S/o Late  
Kangali Ch. Mohanty, At/P.O: Jadibali, Via: Sajangarh, Dist:  
Balasore.

.....Applicant

**By the Advocate(s) ..... Mr. T. Rath**

**Vrs.**

1. Union of India, represented through the Director General of Post, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle, At/PO- Bhubaneswar, Dist-Khurda.
3. Superintendent of Post Offices, Balasore Division, Balasore.

..... Respondent(s)

**By the Advocate(s) - Mr. A.K. Bose.**  
**Sr. Govt. Standing Counsl**

**ORDER**

**SHRI B.N. SOM, VICE-CHAIRMAN:**

This O.A. has been filed by Shri R.N. Mohanty, being aggrieved by the fact that the Respondent No.3 has not yet paid Ex-gratia gratuity and other terminal benefits although he retired on superannuation w.e.f. 02.08.01.

2. The facts of the case are that the Applicant was recruited as E.D.D.A., Sajangarh, Branch Office in December, 1962 by Respondent No. 3. At the time of his appointment his age was recorded in the descriptive rolls prepared by the Department as 34 years. He submitted birth certificate from his School which disclosed that he was born on 06.04.1929. On 08.07.1969 Respondent No.3, vide Annexure R-4, informed him that his date of birth was 16.09.1937. Thereafter, in November 1992 vide Annexure-1 Respondent No.3 circulated ED Seniority list, corrected up to 01.07.1992 for Balasore Division, where the name of the applicant appeared at Sl. No. 331 and his date of birth was mentioned as 16.09.1937. By virtue of Annexure-4 and Annexure-1 the applicant should have retired in the year 2002. However, by issuing Annexure-2 in August, 2001 Respondent No.3 informed him as follows:-

“ You were due to retire on superannuation from the post of EDBPM Jadibali, B.O. in a/c with Sajangarh S.O. on 06.04.1994 after completion of 65 years of age being your date of birth as 06.04.1929. But you have over-stayed for more than 7 years. Therefore, please take notice to retire from the post of EDBPM Jadibali, B.O. in a/c with Sajangarh S.O. with immediate effect”.

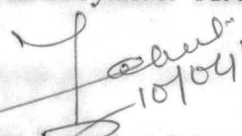
He was accordingly relieved from his post w.e.f. 06.04.1994.

3. Mr. T. Rath, Ld. Counsel for the applicant submitted that if he was retained beyond 1994 in service, the applicant could not be blamed for the same because it is Respondent No.3 who had since 1969 shown his date of birth as 1937. In the circumstances, if, as

stated by R-3 at Annexure-2, the applicant had overstayed for more than 7 years, that was not due to <sup>any</sup> machination on the part of the applicant. The applicant remained on job because he was not retired. In these circumstances when Respondent No.3 asked him to handover the charge of the EDBPM Jadibali, B.O. he did it without demur. However, what is painful is that Respondents have not settled his terminal benefits.

4. We have also heard Mr. A.K. Bose, Sr. Central Govt. Standing Counsel who admitted that the retention of the applicant in service till 02.08.2001 was on account of an error in official document. In view of these facts of the case, we agree with the submission made by the Ld. Counsel for the applicant that the applicant's overstay in the post beyond 65 years is not attributable to any fault on the part of the applicant. The blame has to be picked up by the Respondents. In the circumstances, it was not correct on the part of the Respondent to cause delay in the settlement of the ex-gratia gratuity payment to the applicant. Our attention was drawn by the Senior Standing Counsel to D.G., Posts., Letter No.17-78/92-ED & Trg., dated 31<sup>st</sup> May, 1993 (Annexure-3) and he stated that it is on account of the direction of DG (Posts) that "Payment of Ex-gratia gratuity is not made to the concerned ED Agents, unless sanction for regularization of the irregular retention in service beyond the age of 65 years is obtained from the competent authorities and the proposals

sent to this office are complete in all respects.” We are not impressed by this order in this case as the retention of the applicant beyond the age of superannuation took place because of erroneous documentation by the Respondents. But for this reason they could not have delayed the settlement of terminal dues of the applicant after his superannuation. By doing so they have inflicted misery and hardship on the applicant which must be mitigated sooner than later. We therefore direct that the Respondents should pay, within a period of 45 days from the date of receipt of this order, all terminal dues to the applicant and for this purpose the observation of para 4 for D.G., Posts., Letter No.17-78/92-ED & Trg., dated the 31<sup>st</sup> May, 1993 is kept in abeyance. Accordingly we allow the O.A. No costs.

*10/04/03*  
  
 ( M.R. MOHANTY )  
 MEMBER (JUDICIAL)

  
 ( B.N. SOM )  
 VICE-CHAIRMAN

CAT/CTC  
 Kalpeswar