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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.460 OF 2007

Cuttack this the 04th day of April, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, JUDICIAL MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, ADMINISTRATIVE MEMBER

...

Ramesh Chandra Das, aged about 55 years, S/o.Mahendra Chandra Das, Vill-Sainso, PS-Gobabasta, Via-Phulnakhara, District-Cuttack – at present working as Section Supervisor, SRO, Berhampur

...Applicant

By the Advocates:M/s.Jayadev Sengupta, D.K.Panda,G.Sinha, A.Mishra & S.Mishra

-VERSUS-

1. Regional Provident Fund Commissioner, Orissa, Bhubaneswar, Bhavisyanidhi Bhawan, Unit No.9, Janapath, Bhubaneswar
2. Regional Provident Fund Commissioner, Sub-Regional Office, Bhavisyanidhi Bhawan, Panposh Road, Rourkela-769 004
3. Assistant Provident Fund Commissioner, Sub-Regional Office, O.S.R.T.C. Building, Netaji Subash Marg, Berhampur-760001, District-Ganjam

...Respondents

By the Advocates:Mr.S.S.Mohanty

ORDER

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER:

1. Heard Shri J.Sengupta, learned counsel for the applicant and Shri S.S.Mohanty, learned counsel appearing on behalf of the Respondents and perused the materials on record.

The applicant in this O.A. has sought for the following relief:

- i) ...to quash the order dated 28.5.07 (Annexure-A/15); and
 - ii) To direct the Respondents to treat the period of suspension i.e., from 22.12.1997 to 28.05.04 as duty and to pay the full pay and allowances as due and admissible for the period minus the subsistence allowance already received; or
 - iii) in the alternative to direct the Respondents to pay the applicant the arrears of subsistence allowance by enhancing the subsistence allowance to 75% w.e.f. 22.3.98 till 28.05.2004".
2. Respondents have filed their counter opposing the prayer of the applicant.

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3. Shorn of unnecessary details, it would suffice to note that the applicant, while working as Legal Assistant under the Respondent-Department was placed under suspension w.e.f. 22.12.1997 on the ground of an F.I.R. lodged against him by the CBI. However, the learned Special Judge (CBI) discharged the applicant on 25.9.2000 as no prima facie case was made out against him. In the above background, the applicant went on submitting representation after representation to the Respondents for his reinstatement. While the matter stood thus, he was issued with Memorandum of Charge on 18.3.2002 requiring him to submit his written submission, in response to which the applicant so submitted. Be it noted that during the course of inquiry, the applicant was reinstated in service on 24.5.2004 and finally, he was exonerated of the charge on 31.1.2007. The applicant's prayer for treating the period of suspension as duty with consequential arrears of salary accrued to him on that account having been rejected by the Respondent vide AnneuxreA/15, on the following grounds :-

"The representation of Sri Ramesh Ch.Das SS, SRO, Berhampur regarding treatment of his suspension period has been examined carefully and found premature to consider the same before conclusion of the criminal proceedings pending against him in the Hon'ble High Court of Orissa, Cuttack,"

the applicant has moved this Tribunal with the prayers as referred to above.

4. Learned counsel, by filing Misc.Application No.844/2010, annexing thereto a death certificate has prayed for substitution of the legal heirs as the applicant, in the meantime on 19.9.2010 has passed away.

5. We have considered the submissions made by the learned counsel for the parties. Having regard to peculiar facts and circumstances of the case, we are of the view that since the criminal proceeding pending against the applicant before the Hon'ble High Court would abate in view of the demise of the applicant herein and

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defendant in the criminal proceedings before the Hon'ble High Court, there is no embargo for the Respondents to calculate, draw and disburse the arrears amount accrued to the deceased on account of treatment of the period of suspension till the date of reinstatement as duty, in favour of the legal heirs.

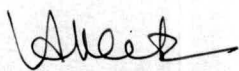
Ordered accordingly.

6. In the circumstances, we quash the impugned order at Annexure-A/15.

With the observation and direction made above, this O.A. is disposed of. No

costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER

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