

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.747/2010

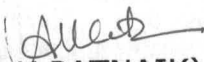
Cuttack this the 20th day of December, 2011

Narasingha SahuApplicant

VERSUS

Union of India & Ors.Respondents.

1. Whether it be referred to reporters or not?
2. Whether it be referred to PB, CAT, New Delhi or not?


(A.K.PATNAIK)
MEMBER (JUDICIAL)
(ADMN.)


(C.R.MOHAPATRA)
MEMBER

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.747/2010

Cuttack this the ~~20th~~ day of December, 2011

CORAM : THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)
THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

Narasingha Sahu,
At - Postal Colony,
Post - Parlakhemundi Dist -
Gajapati.
(By Advocate G.K.Behera)

...Applicant

Vs.

1. Union of India, represented
Through the Director General of
Post, Dak Bhawan, Sansad Marg,
New Delhi - 110 001.
2. Chief Post Master General,
Orissa Circle,
Bhubaneswar,
Dist. Khurda.
3. Post Master General,
Berhampur Region,
Berhampur,
Dist. Ganjam.
4. Sr.Superintendent of Post Offices,
Berhampur Division,
Berhampur (Gm.) - 760001.
5. Director of Accounts (Postal),
Dak Lekha Bhawan,
Mahanadi Vihar,
Cuttack-4.

...Respondents.

(By Advocate Shri U.B.Mohapatra, SSC)

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O R D E R

{C.R.MOHAPATRA, MEMBER (A)}

Applicant while working as Postmaster (HSG I), Chatrapur Head Post Office, on reaching the age of superannuation retired from service w.e.f. 30.6.2007. In this Original Application filed under section 19 of the A.T. Act, 1985 his prayer is to quash the order under Annexure-A/8-A dated 27.09.2010 rejecting the representation against the order under Annexure-5/A in which the applicant was asked to refund the amount of Rs.33,076/- already paid to him for holding the higher post on officiating basis. According to the Respondents (in counter), the Sr. Accounts Officer (Pension), DA (P) in letter dt. 1.2.2008 ordered recovery of Rs.33,076/- from the applicant on the ground that the applicant is not eligible to officiate in HSG I cadre prior to his regular promotion in HSG II cadre i.e. from 2.7.2003 to 2.2.2004, 3.3.2004 to 27.6.2004 and from 1.7.2004 to 15.7.2007. As such the recovery action was initiated vide Annexure-5A.

2. Heard Learned Counsel for both sides and perused the materials placed on record. Besides reiterating the stand taken in the pleading, it was contended by Applicant's Counsel that since discharge of duty by shouldering higher responsibility on officiating

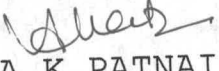
basis is not in dispute, the applicant was entitled to higher pay based on the doctrine 'equal pay for equal work'. His submission was that if the amount paid to the applicant is recovered this would tantamount to acting contrary to the said principle. This apart, he submitted that Shri Ananta Behera, APM, Chatrapur HO, Sri Ramchandra Behera, BCR Postal Asst. Berhampur HO though have been paid the pay and allowances of the higher post during officiating period and as such asking the applicant to refund the amount is not sustainable in the eyes of law being discriminatory. Hence, according to the applicant giving undertaking in a panic situation to refund the amount if objected to cannot be a ground to ask the applicant to refund the amount after retirement, especially when shouldering of higher responsibility is not in dispute. On the other hand, it was submitted by Learned Counsel appearing for the Respondents that the applicant was paid the amount on the specific undertaking that in case such payment is objected to he would refund the same and therefore, he is estopped to turn around and object to such recovery. As regards payment of the pay and allowances to others is concerned it was contended by him that no evidence has been placed by the applicant in support of such payment. Accordingly, Respondents' Counsel has prayed for dismissal of this OA.


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3. After giving indepth consideration to various arguments advanced by the parties, we have perused the materials placed on record. We find no justification on any of the grounds/submission advanced on behalf of the Respondents to uphold the order under rejection in Annexure-A/8. When the applicant has discharged his duty in the higher post, may be in officiating capacity, he had shouldered the higher responsibility and as such he was entitled to the pay & allowances attached to the higher post; especially when it was the specific case of the applicant all through that such benefits have been allowed to S/Shri Ananta Behera, APM, Chatrapur HO, Ramchandra Behera, BCR Postal Asst. Berhampur HO but not recovered. The Respondents have tried to evade to furnish any specific reply. In view of the above, we find force in the submission of the Learned Counsel for the Applicant that recovery of the amount already paid to him is not tenable in the eyes of law. Hence, the order under Annexure-A/8 is quashed. The Respondents are hereby directed to refund the withheld amount of Rs.33,076/- to the Applicant forthwith preferably within a period of thirty days from the date of receipt of copy of this order, failing which, the applicant would be entitled to 8% interest per annum till the amount is actually paid to him.

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4. In the result, this OA stands allowed to the extent stated above. No costs.


(A.K. PATNAIK)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

