

25

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 114 of 2011
Cuttack, this the 15th day of September, 2014

Bharat Ch. Sethy Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be referred to PB for circulation?


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judicial)

26

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 114 OF 2011
Cuttack, this the 15th day of September, 2014

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (Judl.)
HON'BLE MR. R.C. MISRA, MEMBER (Admn.)

.....

Bharat Charan Sethy,
Aged about 63 years,
Son of Late Rajkishore Sethy,
Retired Senior Superintendent of Post Offices,
Berhampur Division, Berhampur,
Now residing at Madan Mohan Lane,
(Darakhapatna), Nuapara,
PO- Nayabazar, Dist- Cuttack-753004.

.....Applicant

Advocate(s)... M/s. B.S.Tripathy, B.P.Mohapatra

VERSUS

Union of India represented through

1. Secretary,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi-110001.
2. Chief Post Master General,
Orissa Circle, Bhubaneswar-751001,
Dist: Khurda.

..... Respondents

Advocate(s)..... Mr. L. Jena

.....

[Signature]

ORDER**A.K.PATNAIK, MEMBER (JUDL.):**

According to the Applicant on 16.9.1969 he entered in to the service as Clerk in Cuttack Postal Division. After being successful in the competitive examination conducted by the Respondent-Department, in May, 1979she was appointed as Inspector of Post Offices, Pattamundai Sub Division and in the year 1992 he was promoted to the cadre of Assistant Superintendent of Post Offices and was posted as ASPOS (HQ), Cuttack South Division, Cuttack. While working as such he was transferred to Puri where he served upto September, 2003 in different posts. The applicant was promoted to the cadre of postal Services Group B and posted as Superintendent of Post Offices, Sambalpur Division in the year 2007 and subsequently was transferred to Keonjhar where he worked upto May, 2008. On 25.4.2008 he was promoted to the cadre of Junior Time Scale Group A on regular basis and posted as Senior Superintendent of Post Offices, Berhampur (Ganjam) Division. He relinquished the charge of Keonjhar Division on 10.05.2008 and assumed the charge of Berhampur Division on 12.5.2008 and retired from service on 31.05.2008. The post of SSPO Berhampur Division was declared as STS Post but the applicant was paid his salary in JTS post. By making representation dated 14.10.2009 he has prayed for granting him the scale of pay attached to STS Group A cadre which the applicant had worked from 12.5.2008 to 31.05.2009 as S.S.P.O., Berhampur. Alleging inaction in giving due consideration to his representation he filed OA No. 560 of 2010 which was disposed of by this Tribunal on 28.09.2010 with direction to the Respondents to consider the representation and communicate the decision thereon to the Applicant. In



28

compliance of the order of this Tribunal, Respondents considered the representation but rejected the claim of the applicant vide letter dated 04.01.2011. Hence by filing this OA, he has prayed to quash the order of rejection dated 04.01.2011 and to direct the Respondents to release higher salary attached to STS cadre in his favour for the period from 12.05.2008 to 31.05.2009 along with all retirement benefits based on last emoluments with interest @ 18% per annum.

2. Respondents resist the claim of the applicant on the ground that the consequent upon the promotion of the applicant to JTS Gr.A he was posted as Senior Superintendent of Post Offices, Berampur Division Berhampur where he joined on 12.05.2008. As per the letter of the Directorate dated 16.08.2000 the post of SSPOs Berhampur became STS from 01.03.1998 to 20.02.1999. But the Applicant worked in the said post from 12.05.2008 to 31.05.2009. As per the instruction of the DGP&T, New Delhi dated 27.7.1999 a post will be deemed to be in JTS if the post holder is having a Gr. A service upto 4 years and in STS as and when he is promoted to STS grade through DPC after 4 years of service. As the applicant had not completed 4 years of service in JTS cadre and was not considered for promotion to STS his claim for STS salary is not sustainable in the eyes of law. Accordingly, Respondents have prayed for dismissal of this OA.

3. A rejoinder has been filed by the applicant in which it has been stated that though sanction of the President of India for retention of Senior Superintendent of Post Offices, Berhampur Division in Group A (STS) was



conveyed vide letter dated 16.08.2000 the position was continued until the date of retirement of the applicant on 31.05.2009.

4. In course of hearing Mr.B.S.Tripathy-1, Learned Counsel for the Applicant besides reiterating the stand taken in the OA has placed reliance on the decision of this Tribunal in the case of Gouranga Jena VRS Union of India and others in OA No. 602 of 2010 disposed of on 10th September, 2012 which has been upheld by the Hon'ble High Court of Orissa on 26.02.2014 in WP (C) No. 25056 of 2012 to state that as the applicant had discharged his duty in the STS post he is entitled to the pay scale attached to the said post. On the other hand, Mr. L.Jena, Learned Additional CGSC appearing for the Respondents by reiterating the stand taken in the counter has prayed for dismissal of this OA.

5. We have considered the rival contention of the parties and also examined the records of this OA vis-à-vis the disposed of OA No. 602 of 2010 and find that this case is akin to the case of Gouranga Jena (supra) except one point on which nobody has thrown any light to remove our doubt as to whether similar sanction order was granted for retention of the SSPO Berhampur (GM) as (Gr.A) (STS) till the retirement of the applicant. Therefore, by applying the decision of this Tribunal in the case of Gouranga Jena (supra) while quashing the order of rejection dated 4th January, 2011 we remit the matter to the Respondents to find out whether the post held by the applicant till retirement was continued to be a STS Group A post and if it is so, then grant him the benefits as was granted to Shri Jena in compliance of the order of this Tribunal and if no such approval was received such fact should be conveyed to the applicant in a well reasoned order. The entire



30

-5-

O.A.No. 114 of 2011
B.C.Sethy Vs UOI

exercise shall be done within a period of 90 (ninety) days from the date of receipt of copy of this order. In the result, for the discussions made above this OA stands disposed of. There shall be no order as to costs.


(R.C.Misra)

Member (Admn.)


(A.K.Patnaik)

Member (Judicial)

RK