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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.590 of 2011
Cuttack, this the 27th day of April, 2012

Balaram Jena Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?

A.K.PATNAIK
(A.K.PATNAIK)
Member(Judl)

C. R. MOHAPATRA
(C. R. MOHAPATRA)
Member (Admn.)

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THE HON'BLE MR.C.R.MOHAPATRA, MEMBER, (ADMN.)
And
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

.....
Shri Balaram Jena, aged about 61 years, Son of Late
Madhusudan Jena, At/Po.Dolasahi, Dist. Bhadrak, retired
Manager, Postal Printing Press, Bhubaneswar.

....Applicant
By legal Practitioner -M/s. S.P.Mohanty,R.Mohanty,
P.K.Lenka,M.Barik, Counsel

-Versus-

1. Union of India represented by the Secretary to Government of India, Department of Posts, Dak Bhawan, New Delhi-110 116.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist. Khurda.
3. Director of Accounts (Postal), Cuttack-753 004.

....Respondents
By Legal Practitioner - Mr.R.C.Bhera, ASC

O R D E R

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

Alleging non payment of his retirement dues
(after retirement on 31.12.2010) viz; pension, commuted
value of pension, DCRG, Leave Encashment, CGEGIS, GPF
and salary for the period from 13.12.2010 to 31.12.2010 this
OA has been filed by the applicant in which he has sought
direction to the Respondents to release his dues, as aforesaid,
and to regularize his period of suspension from 8.12.2010 to

(Signature)

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22.12.2010. He has also sought direction for payment of simple interest @ 18% per annum from 01-01-2011 till the date of actual payment on his withheld dues.

2. Respondents filed their counter in which it has been stated that on certain allegation of omissions and commissions, pending initiation of disciplinary proceedings, the applicant was placed under suspension w.e.f. 08.12.2010 which was subsequently revoked on 22.12.2010. But the applicant without joining his duty on or after 22.12.2010 retired from service w.e.f. 31.12.2010. However, for the lapses committed by the applicant, while in service, draft charge sheet under Rule 9 of CCS (Pension) Rules, 1972 was prepared against the applicant and the same was sent to the Office of the Respondent No.1 on 13.01.2011 for necessary action. Therefore, the dues of the applicant have not been released.

3. Applicant filed rejoinder in which it has been stated that as on the date of his retirement there was no disciplinary proceeding pending or initiated against him by

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way of issue of any charge sheet to him. Applicant has also questioned the authority of the Respondent No.2&3 for preparing the draft charge sheet under Rule 9 of the Rules, 1972 on 13.01.2011 as according to the applicant after his retirement on 31.12.2010, Respondent Nos. 2&3 for not his disciplinary authority.

4. Learned Counsel appearing for the parties have reiterated the stand taken in their respective pleadings and having heard them at length, we have perused the materials placed on record. In course of hearing it was submitted by Mr. Behera, Learned ASC appearing for the Respondents that he has received no further instruction as to whether the draft charge sheet has been finalized and issued to the Applicant. The applicant's counsel was very specific that no charge sheet has been issued/received. In the counter it has been stated by the Respondents that draft charge sheet has been sent to Respondent No. 1 on 13.01.2011. It is seen that counter has been **filed on 12.12.2011 i.e. eleven months after the draft charge sheet was sent to Respondent No.1.**

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It would appear that the charge sheet has remained at draft stage only. Time and again it has been held by the Hon'ble Apex Court that retirement dues are not bounty so that the same can be paid to the employees at the mercy and sweet will of the authority. Under the Rules one is entitled to retirement dues soon after his retirement and non payment of such dues must be only in accordance with Rules. But no rule has been produced by the Respondents to justify their inaction for withholding retirement dues and not granting regular pension.

In so far as the revocation of the order of suspension and joining of the applicant is concerned, the stand of the Respondents is that the applicant was placed under suspension w.e.f. 08.12.2010 which was subsequently revoked on 22.12.2010. But the applicant without joining his duty on or after 22.12.2010 retired from service w.e.f. 31.12.2010. This plea of the Respondents of unauthorized absence of the applicant was refuted by the applicant's counsel by stating that the applicant remained on leave from

22.12.2010 till his retirement on superannuation. As such, there was no reason not to grant the retirement dues of the applicant. Be that as it may, as stated above, since no charge sheet has been served on the applicant till date and as per the Rules after revocation of the order of suspension it was the duty of the Respondents to pass order as to how the period of suspension of an employee would be treated which having not been done the Respondents shall have to do the same in a well reasoned order to be communicated to the applicant.

5. In view of the above, we direct the Respondents to release all the retirement dues and grant regular pension instead of provisional pension, to which the applicant is entitled to under the Rules, forthwith, at any rate within a period of 45 days from the date of receipt of copy of this order. We also direct the Respondents to pass appropriate orders as mandated under the Fundamental Rules as to how the period of suspension will be treated so as to regulate his pay and allowances for the relevant period. With the

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aforesaid observation and direction this OA stands disposed
of. No costs.

A. K. Patnaik
(A. K. PATNAIK)
Member (Judl)

C. R. Mohapatra
(C. R. MOHAPATRA)
Member (Admn.)