

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 814 OF 2011
CUTTACK, THIS THE 21st DAY OF October, 2013

Uttam Kumar Pradhan.....Applicant

Vrs.

Union of India & OrsRespondents

FOR INSTRUCTIONS

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


(A.K.PATNAIK)
MEMBER (JUDL.)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 814 OF 2011
CUTTACK, THIS THE 21ST DAY OF October, 2013

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HON'BLE SHRI A.K. PATNAIK, MEMBER (JUDL.)

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Uttam Kumar Pradhan,
Aged about 44 years,
S/o Late Brundaban Pradhan,
G.D.S.M.D. cum M.C.,
Dera Branch Post Office Dera,
P.S. Rajnagar, Dist. Kendrapara,
Presently working as Incharge
Branch Post Master, Kurunti,
Rajnagar, Dist: Kendrapara,

.....Applicant

(Advocate(s) : M/s. S.Patra-I, M. Ray)

VERSUS

Union of India Represented through

1. Chief Post Master General,
Orissa Circle, Bhubaneswar,
Dist. Khurda.
2. Superintendent of Posts,
Cuttack North Division,
15, Cantonment Road,
Cuttack.
3. Inspector of Posts,
Pattamundai Sub-Division,
Pattamundai, Dist. Kendrapara.
4. Post Master,
Kendrapara Head Post Office,
Kendrapara.

... Respondents


Advocate(s)..... Mr. S. Barik.

.....

O R D E R (ORAL)

MR. A.K.PATNAIK, MEMBER (JUDL.):

In this O.A., the applicant, who is a GDS MD -cum- MC,
Dera Branch Post Office, Dera in the District of Kendrapara (at
present working as in-charge Branch Post Master, Kurunti, Rajnagar,



Dist. Kendrapara), has filed this O.A. praying therein to quash the memo dated 22.09.2011 and to direct the Respondents to pay him daily wages of 505 days with 12% interest.

2. The case of the applicant in brief is that during March 2006 while working as GDS MD cum MC vide order dated 03.03.2006 he was directed to manage the delivery work of Rajnagar Sub Post Office. Accordingly, w.e.f. 07.03.2006 (afternoon) the applicant was relieved from his post and joined on his new assignment on 08.03.2006 (forenoon) at Rajnagar S.O. While working in the said post vide order dated 23.07.2007 the applicant was directed by Respondent No.3 to work as GDS BPM of Kurunti B.O. Accordingly, on being relieved from Rajnagar, the applicant joined at his new place of posting on 26.07.2007. The applicant worked in the post of Postman from 08.03.2006 to 26.07.2007 and claiming wages for the said period for his work as Postman, he submitted representation dated 05.08.2008. Respondent No.3 vide letter dated 30.04.2010 intimated that the applicant is entitled to 505 days daily wage allowance but he was not paid the said allowance for which he submitted a representation dated 28.05.2011 before Respondent No.3 with copy to Respondent No.2 praying therein to sanction leave and to take steps for early payment of daily wages. Alleging inaction, the applicant filed O.A. No. 523/11 before this Tribunal praying for a direction to the Respondents to pay him the wages for 505 days. This Bench vide order dated 12.08.2011 directed Respondent Nos. 3 and 4 to consider and dispose of the representation and intimate the result

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thereof to the applicant within a period of 30 days. Thereafter, the applicant was intimated vide memo dated 22.09.2011 that he is not entitled to the wages as claimed by him. Hence, this O.A. with the aforesaid prayer.

3. Respondents have filed their counter in which it has been stated that the applicant is a regular GDS MD cum MC of Dera B.P.O. in account with Rajnagar S.O. under Kendrapara H.O. and he was ordered to manage the delivery work of Rajnagar S.O. by the Inspector of Posts, Pattamundai Sub Division, who is the administrative authority of the applicant, vide memo dated 03.03.2006. The applicant joined at Rajnagar S.O. on 08.03.2006 by giving the charge of GDS MD cum MC to the GDS BPM, Dera B.O. as per controlling authority order dated 03.03.2006 in which the GDS BPM was also ordered to manage the duties of GDS MD cum MC on combination of duty. While the applicant assumed the charge of GDS MD, Rajnagar S.O., he has not availed any kind of leave. Applicant was ordered to manage the delivery work of Rajnagar S.O. with existing TRCA applicable to the GDS employees. The applicant assumed the charge of GDS MD Rajnagar SO and managed the delivery work of Rajnagar SO from 08.03.2006 (forenoon) to 26.07.2007 (forenoon). He was relieved from the charge of GDS MD Rajnagar and joined as GDS BPM, Kurunti B.P.O. on 26.07.2007 as per the order of the Inspector, Pattamundai Sub Division dated 23.07.2007. It is the case of the Respondents that the applicant was directed to manage the delivery work of Rajnagar SO in the capacity

[Signature]

of GDS MD within his working hours fixed to that post by way of a general administrative order issued by the Respondent No.3 but it is not a fact that the applicant was ordered to act as Postman, Rajnagar SO on daily wage basis by his controlling authority. The applicant had also taken his monthly TRCA meant for his original post of GDSMD cum MC in due time for the period from 08.03.2006 to 25.07.2007 without any objection. On receipt of the representation vide order dated 30.04.2010 the Inspector, Pattamundai Sub Division sanctioned the daily wages for 505 days for the period from 08.03.2006 to 25.07.2007 but later on the said order was cancelled mentioning therein that his case will be considered after sanction of leave in his favour. The representation submitted by the applicant was considered by the competent authority in compliance of the order of this Tribunal but the same was rejected and communicated in a well reasoned order. Hence, it has been alleged by the Respondents that this O.A. being devoid of any merit is liable to be dismissed.

4. No rejoinder has been filed despite receipt of the counter and opportunity being granted.

5. We have heard Mr. Sadasiv Patra, Ld. Counsel for the applicant, and Mr. S. Barik, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents and perused the materials placed on record.


6. Mr. Patra has contended that admittedly the applicant has worked in the post of Postman for a period of 505 days on the direction of the competent authority thus as per law the applicant is



entitled to the pay attached to the post. Considering this aspect, though for payment of wages was earlier ordered, but subsequently, the same was unilaterally cancelled without giving any prior opportunity to the applicant. It was also submitted by Mr. Patra that in similar circumstances, persons who had earlier discharged the higher duties have been paid the daily wages attached to the post thus there is clear cut discrimination in case of the applicant which violates Article 14 of the Constitution of India. Accordingly, Mr. Patra, the Ld. Counsel for the applicant has vehemently prayed for granting the relief as prayed for in this O.A.

7. Per contra, Mr. S. Barik, Ld. ACGSC, by placing reliance on the points made in the counter has reiterated that since the applicant did not avail the leave in his original post and received the TRCA as GDSMD cum MC, the applicant is not entitled to the wages as claimed by him. Therefore, he reiterated that this O.A. being devoid of merit is liable to be dismissed.


8. I have considered the rival contention of the parties. Fact of the matter is that the applicant had worked for the post of Postman for 505 days. It has also not been denied by the Respondents on the specific averment made by the applicant that in similar circumstances employees having discharged duties have been paid the wages in the higher post. When the competent authority ordered the applicant to work in the post of Postman and accordingly he was relieved from his original post, the authority concerned should have insisted for applying leave by the applicant. The applicant had worked in the said



post as per the order of the authority. Therefore, non-payment of daily wages for 505 days, which was duly sanctioned vide order dated 30.04.2010, is not sustainable in the eyes of law. In the above circumstances, grounds stated in the order of rejection do not sound good to the judicial conscience. Hence, the order of rejection is hereby quashed.

9. Respondents are directed to pay the amount as ordered vide order dated 30.04.2010 within 30 days from the date of receipt of copy of this order, failing which the applicant would be entitled to 12% interest from the date of his entitlement till the payment is actually made.

10 In the result the O.A. stands allowed to the extent stated above. No order as to costs.


(A.K.PATTNAIK)
MEMBER(Judi.)