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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. No.89 of 2010
Cuttack this the 8th August, 2012

Babaji Charan Samantray.... Applicant
Vrs
Union of India & Others Respondents

O R D E R

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

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The prayer of the Applicant in this OA is to quash the order under Annexure-2 dated 29.11.2007 and to direct the Respondent No.2 to reinstate him to service and pay him *ex gratia* compensation during the period of his put off duty/May, 2008 with 12% interest per annum.

This OA was filed by the Applicant on 23.3.2010 which was placed before the Bench on 31.3.2010. As none was present for the Applicant, this OA was adjourned to be taken up as and when the same would be moved on behalf of the Applicant. On

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being moved, the matter was listed on 8.4.2010 but as the Ld. Counsel for the Applicant was unable to show us the Rules based on which the Applicant was placed under off duty, the matter was adjourned to 9.4.2010.

On 9.4.2010, this OA was admitted and notice was issued to the Respondents. On 03.08.2010 counter was filed by the Respondents without serving copy thereof on the other side. When the matter was listed on 28.10.2010 it was submitted by Mr. U.B.Mohapatra, Learned SSC that copy of counter could not be served due to non availability of the Applicant's Counsel. Hence as per the order dated 28.10.2010 copy of counter was sent by the Registry to the Applicant by post. When the matter was listed on 22.11.2010 none was present for the applicant to prosecute this OA. Hence this OA was dismissed for default. By filing MA No. 820 of 2010 on 30.11.2010, Applicant sought to restore the OA. The said MA was listed for consideration on 29.9.2011 and on the

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request of Ld. SSC time till 19.10.2011 was allowed to file the reply to the MA. Accordingly the matter was listed on 19.10.2011 but none was present for the Applicant. Hence the MA was also dismissed for default. By filing MA No. 263 of 2012 on 22.3.2012 applicant has sought to restore the MA No. 820 of 2010 and this OA. The aforesaid MA No. 263 of 2012 has been listed today for consideration. Today by filing Memo dated 8.8.2012, the Applicant's Counsel has stated as under:

“That the Applicant may be permitted to withdraw the OA No. 89 of 2012 after order of restoration of the OA to file is passed in MA No.263 of 2012 with liberty to prefer a fresh Original Application for payment of compensation *ex gratia* till the applicant retired on 30.11.2011 by the Respondents as envisaged under GDS (Conduct and Employment) Rules, 12 (3) and sub clause (1) of the proviso to Rule 12 (3).”

Mr.U.B. Mohapatra, Learned SSC is present in Court. Heard Learned Counsel for both sides. In view of the Memo filed prayer made in the MA 263 of

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2012 is allowed. Prayer made in MA No. 820 of 2010 stands allowed and the OA is restored to file. Accordingly both the MAs stand disposed of.

As per the Memo, this OA stands disposed of with liberty to the Applicant to file fresh OA, if so advised. No costs.

A.K.Patnaik
(A.K.Patnaik)
Member(J)

C.R.Mohapatra
(C.R.Mohapatra)
Member (A)