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29 JAN 2016

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH: C U T T A C K.

ORIGINAL APPLICATION NO. 357 OF 2016.

Banchhanidhi Mishra, aged about 61 years, S/o-Late
Tripurari Mishra, Retired Senior Superintendent of Post Offices,
Berhampur, At-Flat No.S-3, Ganesh Bhaskar Residency, Near
City Bus Stand, P.O.-Berhampur, P.S.-Berhampur Town, Dist-
Ganjam.

..... Applicant

-VERSUS-

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1. Union of India, Ministry of Communication & IT
Department of Post represented through it's Director
General of Post, Dak Bhawan, Sansad Marg, New Delhi-110001
 2. Govt. of India represented through Secretary, Ministry of
Personnel Public Grievance and Pension (Department of
personnel and Training), North Block, New Delhi-110001
 3. Chief Post Master General, Orissa Circle, Bhubaneswar,
District- Khurda
 4. Director of Accounts (Postal), Mahanadi Vihar, At-
Mahanadi Vihar, P.O.-Naya Bazar, P.S.-Chauliaganj, Dist-
Cuttack, Pin-753 004

..... Respondents

Banchhanidhi Mishra

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ORDER (ORAL)
Dated 24.05.2016

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

Heard Mr. T.K.Mishra, Ld. Counsel for the Applicant, and Mr. M.R.Mohanty, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 with the following prayer:-

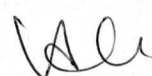
“(i)to direct the respondents to regularize the adhoc period from 04.03.1998 to 17.08.1999.

(ii) And further be pleased to direct the Respondents to fix the pay after regularizing the said period.

(iii) And further be pleased to direct the respondents to refund the recovery mount of Rs. 7,490/- in favour of the applicant and accordingly let the pension be fixed as per the revised scale of pay.

(iv) And this Hon'ble Tribunal be pleased to pass any other order.....”

3. The case of the applicant is that he was promoted to the post of Asst. Superintendent of Post Offices on ad hoc basis for one year. He joined the post of Asst. Supdt. of Post Offices I/C, Baripda on 04.03.1998 and continued on ad hoc basis till 17.08.1999. After being granted 2nd ACP w.e.f. 18.08.1999, he applied for fixation of his increment in Asst. Supdt. of Post Offices cadre w.e.f. 01.05.1998. The Director of Postal Account objected that the fixation benefits allowed by the Post Master, Baripada, Head Quarter w.e.f. 01.05.1998 is not correct and that it should be applicable w.e.f. 01.05.2000. Accordingly, the respondents have recovered Rs. 7490/- from the salary of the applicant. Mr. T.K.Mishra, Ld. Counsel for the applicant, submitted that the applicant in the



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meantime has retired from service and despite several representations filed by the applicant the period from 04.03.1998 to 17.08.1999 has not been regularized. He further submitted that the latest representation of the applicant dated 16.10.2015 under Annexure-A/3 series is pending with Respondent No.3.

4. Mr. M.R.Mohanty, Ld. ACGSC appearing for the Respondents, submitted that this O.A. is not at all maintainable and it should be dismissed at the threshold as the applicant has filed this O.A. with plural remedy.

5. Since the representation submitted by the applicant is stated to be pending with Respondent No. 3, without entering into the merit of this case, we dispose of this O.A at the stage of admission itself by directing Respondent No. 3 to consider the representation dated 16.10.2015 under Annexures-A/3 series, if the same is still pending before him, as per the extant Rules and communicate the result thereof to the applicant by way of a reasoned/speaking order within a period of 03 (three) months from the date of receipt of a copy of this order. If, after such consideration it is found that the applicant is entitled to the relief claimed by him then the same may be extended to him within a further period of 03 (three) months from such consideration. Though Mr. Mohanty, Ld. ACGSC, prayed for dismissal of this O.A. on the ground of maintainability, since we are not going into the merit of the matter, we are not entering into that arena and we make it clear that all the points raised in the representation will be kept open for the Respondents to consider the same as per rules, regulations and law in force. However, it is made clear that if in the meantime the said representation has already been disposed of then the result

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of the same be communicated to the applicant within a period of two weeks from the date of receipt of copy of this order.

5. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.

6. On the prayer made by Mr. Mishra, Learned Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent No. 3 by Speed Post for which he undertakes to file the postal requisites by 26.05.2016.


(R.C.MISRA)
MEMBER (A)


(A.K.PATNAIK)
MEMBER(J)

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