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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 217/2008

Date of order: 19-1-2011

CORAM:

**HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Jeev Raj Panwar S/o Sh. Ramnath Ji, by caste Panwar, aged about 56 years, resident of Village & Post Giri, Dist. Pali (Rajasthan), presently working as GDS BPM (Gramin Dak Sevak Branch Postmaster) Rendri, Sojat Road, Dist. Pali Marwar.

...Applicant.

Mr. K.S. Yadav, counsel for applicant.

VERSUS

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1. Union of India through the Secretary, Ministry of Communication, Department of Post Offices, Dak Bhawan, New Delhi.
 2. The Post Master General, Department of Post Offices, Jodhpur.
 3. The Superintendent of Post Offices, Pali Division, Pali Marwar.

... Respondents.

Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.

ORDER

Per Hon'ble Mr. Justice S.M.M. Alam, Member (J)

[Signature]
The applicant, Jeev Raj Panwar, has preferred this Original Application seeking following reliefs:

- "(i) That impugned order dated 29-2-2008 (Annexure A/1) may kindly be quashed and set aside and non-applicants may kindly be directed to pay a sum of Rs. 1,30,086/- being arrears of full pay allowances w.e.f. 13-1-97 to 24-12-2003 along with interest @ 12% PA from the day as and when the same became due.

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(ii) The cost of the application along with any other relief, which this Hon'ble Tribunal deems fit, just and proper in favour of the applicant, may kindly be granted."

2. The brief facts of the case is that the applicant who was working as GDSBPM (Gramin Dak Sevak Branch Postmaster), Rendri, Sojat Road, Dist. Pali, was ordered to be placed under put off duty vide order dated 24.11.1970 on the charge of misappropriation of public money and facing criminal trial for the said offence. The said criminal case against the applicant ended on 27.06.2000 in acquittal of the applicant. However, on 20.08.2001, a charge-sheet for initiation of disciplinary proceeding against the said charge was issued by the respondents against the applicant. Against the issuance of charge-sheet, the applicant preferred an Original Application before this Tribunal, which was decided on 25.07.2003 and the Tribunal quashed the charge-sheet. On 06.11.2003, the applicant was reinstated in the service but arrears of back wages / ex-gratia payment was not made to the applicant, and then the applicant again filed Original Application before this Tribunal, which was decided on 12.04.2005 in which a direction was issued to the respondents to decide the case of the applicant about payment of allowances for the period of put off duty. On receipt of the said order, the department issued notice to the applicant and accordingly the applicant submitted his representation, but vide order dated 23.07.2005, the department turned down the claim of the applicant for payment of allowances for suspension period. Then again, the applicant preferred an Original Application before this Tribunal, which was

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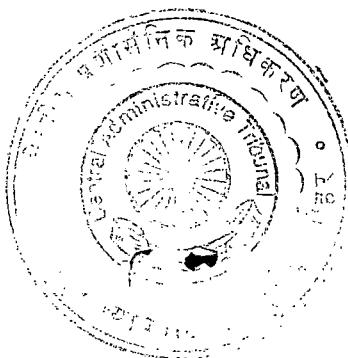
disposed of on 26.04.2007 whereby a direction was issued to the respondents to pay the full admissible allowance for the period between 13.01.1997 to 24.12.2003. Thereafter, the respondents passed the impugned order dated 29.02.2008 (Annexure A/1) whereby a payment of Rs. 34,940/- was ordered to be paid to the applicant by way of admissible allowance for the period from 13.01.1997 to 24.12.2003. The said order is under challenge and as per the contention of the applicant; the calculation made by the respondents is not in accordance with the order passed by the Tribunal as full admissible allowance has not been paid to the applicant as ordered by the Tribunal.

3. On filing of the Original Application, the notices were issued to the respondents and in compliance of the notices; the respondents appeared through lawyer and filed reply of the Original Application. As per the reply, the facts enumerated in the Original Application are not disputed. It is also not disputed that the Tribunal vide order dated 26th April, 2007 passed in O.A. No. 293/2005 had ordered that the applicant is entitled to full admissible allowance for the period of put off duty from 13.01.1997 onwards till the date of his reinstatement i.e. 24.12.2003, and the respondents were directed to work out the same and to pay the entire amount. However, the contention of the respondents is that as per rule for the purpose of calculating admissible allowance during suspension period (put off duty) only 25% of the salary is payable to an employee who has been

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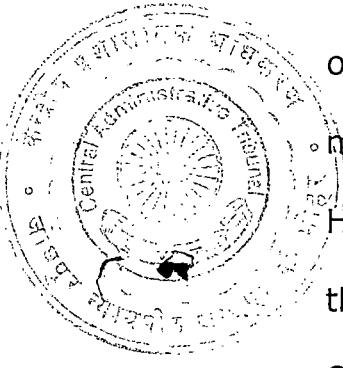
ordered to remain on put off duty, so the calculation done by the respondents is correct and no interference is required.

4. We have heard learned counsel appearing on behalf of the applicant, Shri K.S. Yadav, and learned proxy counsel Shri M. Godara, for Mr. Vinit Mathur, learned counsel for the respondents. As per the arguments advanced by both the parties, the only controversy remains to be decided in this case is that what is the meaning of 'full admissible allowance' in relation to any employee working as GDS BPM. There is no dispute that this Tribunal vide order dated 26.04.2007 passed in OA No. 293/2005 had directed the respondents to pay full admissible allowance to the applicant for the period of put off duty from 13.01.1997 onwards till the date of reinstatement i.e. 24.12.2003. The contention of the learned advocate of the applicant is that in relation to an employee working as GDS BPM, "Remuneration" includes basic monthly allowance + (plus) dearness allowance, and therefore, the correct interpretation of the order will be that the applicant was ordered to be paid full salary which includes monthly allowance and D.A. However, the contention of the learned advocate of the respondents is that the word 'admissible' appearing in the order of this Tribunal means that the applicant was entitled to get only 25% of the pay, which is admissible to an employee who is ordered to remain on put off duty and so the respondents have made correct calculation. We are of the view that since the "Remuneration" which is paid to the GDS BPM employee includes monthly allowance and D.A.

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both, as such the correct interpretation of the order of the Tribunal dated 26.04.2007 will be that full admissible allowance means payment of 'full pay' plus 'dearness allowance'. Admittedly, the respondents' calculation is based on 25% of the pay of the applicant, as such we are of the view that this calculation is not in accordance with the order of the Tribunal passed in O.A. No. 293/2005 dated 26.04.2007, and so it is liable to be quashed and set aside.

5. In the result, we allow this Original Application and quash the impugned order dated 29.02.2008 (Annexure A/1) and direct the respondents to pay the full admissible allowance i.e. 'full monthly allowance plus dearness allowance' to the applicant for the period of put off duty from 13.01.1997 onwards till the date of his reinstatement i.e. 24.12.2003 within a period of four months from the date of receipt of a copy of this order. However, in the circumstances of the case, it is observed that the applicant is not entitled for any interest or cost of the Original Application.


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

दिनांक 21/4/16 के आदेशानुसार
मेरी उपरिद्धाते में दिनांक 9/6/16
को छात्र-II व III का दिए गए ।

अलूधान अधिकारी
क्षेत्रीय प्रशासन का अधिकारी
जोधपुर नगरपाली, जोधपुर