



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.28102 of 2024

Union of India and others Petitioners

*Mr. P.K. Parhi, D.S.G.I.
along with
Mr. Deepak Gochhayat, C.G.C.*

-versus-

***Sarbeswar Das and
another Opp. Parties***

*Ms. Sailabala Jena, Advocate
for the Caveator*

**CORAM:
THE HON'BLE MR. JUSTICE S.K. SAHOO
THE HON'BLE MR. JUSTICE S.S. MISHRA**

Order No.

**ORDER
20.08.2025**

07. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

This writ petition has been filed by the Union of India and others challenging the order dated 04.03.2024 passed by the learned Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00140 of 2022 in allowing the original application filed by the opposite party no.1 Sarbeswar Das and directing the petitioners to pay the officiating pay to the opposite party no.1 for discharging the duties of SPM, Dukura Sub Post Office during the period from 08.11.2017 to 11.02.2020.



The original application was filed by the opposite party no.1, wherein the prayer was made as follows:-

"i. This Honorable Tribunal may kindly be pleased to partially quash the Order dated 28.02.2022 on the subject of paying officiating pay.

ii. This Honorable Tribunal may kindly be pleased to give a direction to the respondents particularly responded No.4, to consider the grievance (at serial No.06) of the applicant enumerated in the representation dated 22.05.2021 made by the applicant vide ANNEXURE-A/6 (Series) and dispose of the same within a time stipulated by this Hon'ble Tribunal.

iii. This Honorable Tribunal may also be pleased to pass any other further order/ orders as deemed fit and proper in the facts and circumstances of the case."

It appears that the opposite party no.1 joined in the Department on Compassionate ground after the death of his father on 15.07.2015. He was directed by the Post Master, Baripada H.O. to proceed to Dukura Sub Post Office to join and work as Sub Post Master, Dukura Sub Post Office on deputation vide letter dated 07.11.2017. Accordingly, he joined at Dukura Sub Post Office on 08.11.2017. It further appears on record that opposite party no.1 had performed duties in the higher post and



shouldered higher responsibility. However, on some allegations, he was placed under orders of suspension on 16.10.2019 and was reinstated in service on 13.02.2020.

It is the case of the opposite party no.1 that since he was discharging his duties as LSG Sub Post Master, which is obviously higher post, he was entitled to the enhanced grade pay i.e. salary of the higher post as per the duties he had discharged. Since he was not paid that amount, he made a representation before the petitioners on 24.06.2020. However, no action was taken on his representation dated 24.06.2020. He submitted another representation on 22.05.2021 and got the response from the Director of Postal Services (HQRs) that the Superintendent of Post Offices, Mayurbhanj Division, Baripada was instructed to look into the grievances made in the representation. Since no action was taken on his representation, the opposite party no.1 approached the learned Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.452 of 2021 for a direction to the concerned Superintendent to consider his grievances and the same was dismissed. Then the opposite party no.1 approached this Court in W.P.(C) No.37432 of 2021 in which this Court directed the Director of Postal Services, Bhubaneswar to take a decision on the representation of the petitioner (opposite party no.1 herein) in accordance with law and to communicate the result thereof. Since the Director of Postal Services, Bhubaneswar did not consider the grievance of the opposite party no.1, the opposite



party no.1 approached the learned Central Administrative Tribunal again in O.A. No.260/00140 of 2022 in which the impugned order has been passed.

The stand of the petitioners before the learned Central Administrative Tribunal was that the opposite party no.1 was working as one time scale SPM at Dukura Sub Post Office and the said post of SPM Dukura was not upgraded to LSG Cadre. As per Directorate letter dated 05.12.2018, the LSG, HSG-II, HSG-I and HSG-I (NFG) posts would be deemed to have been upgraded to these grades only when they were filled up by the officials of the respective cadres and till then the Post would remain in the lower grade. As the opposite party no.1 was not the LSG official and no LSG official had earlier joined as SPM at Dukura SO prior to the opposite party no.1, his claim for higher/officiating pay is impressible.

Learned Central Administrative Tribunal has been pleased to hold that the post of SPM was a higher post and the opposite party no.1 was working as PA in Baripada HO and was sent on deputation to discharge the higher duties. Once an employee was shouldering higher duties and responsibility, he must be paid the officiating pay otherwise the same will be exploitation of a poor employee. Learned Central Administrative Tribunal taking into account the ratio laid down in the case of **State of Punjab -Vrs.- Jagjit Singh reported in (2017) 1 Supreme Court Cases 148** and the decision of the Chandigarh Bench of the Central Administrative Tribunal in



the case of **Naresh Kumar Gupta -Vrs.- Union of India** has been pleased to hold that the rejection of the claim of the opposite party no.1 for granting him officiating pay for discharging duties as SPM, Dukura SO is not sustainable in the eyes of law and accordingly, the order dated 28.02.2022 was quashed and the petitioners were directed to pay the officiating pay to the opposite party no.1 for discharging the duties as SPM, Dukura Sub Post Office during the period from 08.11.2017 to 11.02.2020.

It is not in dispute that the entire period for which the learned Central Administrative Tribunal directed the petitioners to pay the officiating pay, the opposite party no.1 was not discharging his duties as SPM rather he was discharging his duties as SPM from 08.11.2017 till 16.10.2019 when he was placed under orders of suspension. Therefore, in view of the law laid down by the Hon'ble Supreme Court, he is, prima facie, appears to have been entitled for the officiating pay for the period from 08.11.2017 till 16.10.2019.

Mr. Parhi, learned Deputy Solicitor General of India has also brought to the notice of this Court the additional affidavit filed on behalf of the petitioners, wherein in paragraph nos.4 and 5, it is stated as follows:-

"4. That, the Opp. Party No.1 most humbly submits that, the petitioner relied upon a letter dated 05.12.2018 annexed as Annexure-8 which was passed after the Opp. Party No1 was directed to join the post of SPM Dukura



SO on dated 07.11.2017. That, such clarificatory order was issued on 05.12.2018 whereas the petitioner had already joined as SPM on 07.11.2017 on the direction of the petitioners and the Opp. Party No.1 was allowed to continue in the higher post and take up higher responsibilities on deputation.

5. That, the Opp. Party No.1 most humbly submits that such contention of the petitioner regarding directorate letter dated 05.12.2028 has already been considered by the Learned Central Administrative Tribunal, Cuttack Bench, Cuttack and it has been rightly held that such stand of the petitioner is not sustainable in view of the letter of deputation dated 07.11.2017 which was passed by the petitioner deputing the Opp. Party to a Higher Post."

Issue notice on the question of admission indicating therein that the matter shall be disposed of finally at the stage of admission.

No notice is required to be issued to opposite party no.2.

Since Miss Sailabala Jena, learned counsel and her associates have already entered appearance for the opposite party no.1, she has received the copy of the writ petition. She is at liberty to file the counter affidavit in the meantime not only the writ petition but also the additional



affidavit filed by the petitioners.

Learned counsel for the opposite party no.1 submits that she will file the counter affidavit within two weeks.

List this matter in the week commencing from 15.09.2025.

(S.K. Sahoo)
Judge

(S.S. Mishra)
Judge

I.A. No.14905 of 2024

08. This is an application for stay of the impugned order dated 04.03.2024 passed by the learned Central Administrative Tribunal in O.A. No.260/00140 of 2022 under Annexure-3.

Heard.

Mr. Parhi, learned Deputy Solicitor General of India appearing for the petitioners brought to the notice of this Court that for implementation of the impugned order, the opposite party no.1 has already filed a Contempt Petition before the learned Central Administrative Tribunal, Cuttack Bench, Cuttack, which has been registered as C.P. No.56 of 2024.

As an interim measure, it is directed that the C.P. No.56 of 2024 pending before the learned Central



Administrative Tribunal, Cuttack Bench, Cuttack shall be kept in abeyance till the next date.

Urgent certified copy of this order be granted on proper application.

**(S.K. Sahoo)
Judge**

**(S.S. Mishra)
Judge**

RKM

Signature Not Verified

Digitally Signed
Signed by: RABINDRA KUMAR MISHRA
Designation: Personal Assistant
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 21-Aug-2025 18:02:54

