

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/00608/2016

Date of order: 12.12.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Jayanta Sikder,
Son of Late Harendra Nath Sikder,
Aged about 43 years,
Working as Office Superintendent,
Group "B" under Director,
Chittaranjan National Cancer Institute
And residing at 62/1, Raja Subodh Chandra
Mullick Road,
Kolkata - 700 032.

..... Applicant.

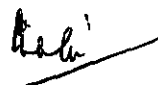
Versus

1. Union of India,
Service through the Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi - 110 011.
2. The Director,
Chittaranjan National Cancer Institute,
37, S.P. Mukherjee Road,
Kolkata - 700 026.
3. Administrative Officer,
Chittaranjan National Cancer Institute,
37, S.P. Mukherjee Road,
Kolkata - 700 026.
4. Senior Administrative Officer,
Chittaranjan National Cancer Institute,
37, S.P. Mukherjee Road,
Kolkata - 700026.
5. Liaison Officer (SC/ST/PH),
Chittaranjan National Cancer Institute,
37, S.P. Mukherjee Road,
Kolkata - 700026.

..... Respondents.

For the Applicant : Mr. B. Chatterjee, Counsel

For the Respondents : Mr. H.S. Chakraborty, Counsel



ORDER (Oral)**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:

"(a) An order directing the respondents, their men, agents servants, associates, subordinates and assigns to consider the representation/application of the applicant dated 23rd December, 2015;

(b) An order directing the respondents their men, agents, servants, associates, subordinates and assigns to fix the Pay Scale of the applicant by granting Grade Pay Rs. 4800/- in PB-2 or any appropriate Grade Pay above Rs. 4200/- in PB-2 w.e.f. the date the applicant got the promotion as Office Superintendent with all consequential benefits;

(c) Costs of and incidentals thereto;

(d) Any other appropriate relief or reliefs as your Lordships may deem fit and proper."

2. Heard both Ld. Counsel, examined pleadings and documents on record.

3. Ld. Counsel for the applicant would submit that the applicant is working in the post of Office Superintendent, Group "B" with the respondent authorities. He had represented before such authorities praying, inter alia, for fixation of his Grade Pay at Rs. 4800/- in PB - 2 w.e.f. the date since he was promoted as Office Superintendent Group "B", and, as the respondent authorities are yet to decide on his pending representation, the applicant has approached the Tribunal for relief.

4. Ld. Counsel for the respondents would submit that, as per bye-laws of respondent Nos. 2 to 5, namely, CNCI, the governing body of the Institute is authorized to frame the staff structure of the Institute and is also authorized to create posts.

The matter regarding the applicant's fixation of pay as per FR 22 (1)(a) had been referred to the concerned authorities, who had responded as follows:-

"If all the provisions under FR 22(1)(a) and the O.M. No. 102.2011 E-III/A dated 07.01.2013 of the Ministry of Finance, Government of India, are satisfied there

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would be no bar in giving the official the benefit of fixation under FR 22(1)(a) otherwise the incumbent is not eligible to get the benefit."

5. At this juncture, Ld. Counsel for the applicants would furnish before us a communication made between respondent No. 2, Director, CNCI and respondent No. 1, that is the Ministry of Health & Family Welfare to disclose that the respondent No. 2, who is the Director, CNCI, had recommended as follows:-

"In view of the above, it is requested that the post of Office Superintendent may be upgraded and merged with that of Assistant Administrative Officer to maintain the official hierarchy and ensure grant of legitimate financial benefits accruing on promotion. The promotional criterion and practice similar to this are already in vogue in other autonomous bodies like AIIMS, PGIMER, JIPMER etc. under Ministry of Health and Family Welfare and simultaneously all the posts below the Office Superintendent will be eligible for promotion on the basis of recommendation of Departmental Promotion Committee thereby enabling the Institute to grant accrued financial benefits arising out of promotion/upgradation. This issue is remaining pending since long in respect of the above mentioned employees who are in the same Grade and promotion with financial benefits has been denied. I will be obliged if you look into this matter and take action at the earliest."

Ld. Counsel for the applicant would thereafter urge that the concerned authority of respondent No. 1 may be directed to decide on the applicant's reference by an early date.

6. Upon a detailed examination of the relief prayed for, and annexed documents, we find that there is no representation / application from the applicant dated 23.12.2015 on record and the only correspondence of even date is a legal notice. Ld. Counsel for the applicant would hence pray for liberty to prefer a comprehensive representation to the concerned respondent authority. Such liberty is granted to the applicant who may prefer a comprehensive representation seeking benefits as claimed by him, citing Office Memorandum and judicial ratio, if any, in his support, within a period of 4 weeks from the date of receipt of a copy of this order.

In the event that such representation is received, the concerned respondent authority shall decide in accordance with law and, in consultation with the appropriate authorities as necessary within a

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further period of 16 weeks therefrom and convey his decision in the form of a reasoned and speaking order to the applicant forthwith thereafter.

6. With these directions, the O.A. is disposed of. There will be no orders on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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