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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.49 OF 1986.

Date of decision : July 30, 1987.

Narayan Chandra Mandal and
another

...

Applicants.

Versus

Union of India and another...

Respondents.

For Applicants ...

M/s. B. Pal & D. B. Das,
Advocates.

For Respondents ...

Mr. A. B. Mishra, Sr. Standing
Counsel (Central)

C O R A M :

THE HON'BLE MR. B. R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. K. P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, relief has been claimed by the applicants for grant of higher scale of pay according to the 3rd Pay Commission Report.

2. Shortly stated, the case of the applicants is that both of them were working under the Dandakaranya Development Project, Koraput and they were designated as Class III non-gazetted employees. The applicant no.1 was an untrained Graduate teacher and was appointed to officiate temporarily as Headmaster, M.E. School vide Annexure-1A dated 18th April, 1975. Thereafter, the applicant no.1 by office order No. 62/81 dated 4th August, 1981 vide Annexure-1/B, was promoted to the post of Headmaster, High School on the recommendation of the Departmental Promotion Committee and thereafter the applicant no.1 has been confirmed in the post of Headmaster, High School since 26th June, 1984. According to the applicant no.1, he is entitled to pay scale of Rs. 550-900/- from 1.5.1975 to 13.8.1981 as Headmaster of M.E. School and he also claims to receive remuneration in the pay scale of Rs. 650-1200/- from 14.8.1981 till the date he functioned as Headmaster of High School. The applicant no.2 while working as a trained graduate teacher was appointed as Headmaster of High School on the recommendation of the Departmental Promotion Committee vide office order dated 9th November, 1973 (Annexure-1/C) and therefore vide office order No. 69/84 dated 26th June, 1984 (Annexure-1/C/C), the applicant no.2 has been confirmed in the post of Headmaster, High School and therefore, the claim of

the applicant no.2 is that he is entitled to the higher scale of pay namely Rs.650-1200/- with effect from 12.11.1973 when he joined the post of Headmaster, High School till he served as such.

3. No counter has been filed in this case for the reasons best known to the Respondents. Hence, the facts asserted by the applicants in their application under section 19 of the Administrative Tribunals Act, 1985 cannot but be presumed to be true and correct.

4. The grievance of the applicants is that though they had worked as Headmasters of M.E.Schools and High Schools yet their monthly emoluments as prescribed by the 3rd Pay Commission has not been paid to them and therefore, they have filed this application for necessary redress. In this connection it was submitted by learned counsel for the applicants that on similar facts the Hon'ble High Court of Orissa in their judgment reported in 58(1984) CLT 485(Subash Chandra Panda versus Union of India and others) have held that the incumbents serving as Headmaster in M.E.Schools or High Schools are entitled to receive the higher scale of pay according to the 3rd Pay Commission report and it has application to all such persons and therefore the petitioners before Their Lordships were given necessary relief on this count. Not only the 3rd Pay commission report was accepted b-y the Government but in pursuance to the judgment of the Hon'ble High Court of Orissa mentioned above the petitioners before Their Lordships had been given higher scale of pay which is undisputed. After the pronouncement of the judgment of the Hon'ble High Court of

Orissa in the aforesaid case and the said judgment having been carried out by the Central Government, one Nrusingha Prasad Mishra, similarly situated had also filed an application before the Hon'ble High Court of Orissa praying for the same relief as his case was exactly same as that of Subash Chandra Panda, the petitioner in the aforesaid case disposed of by Their Lordships. The case of Nrusingha Prasad Mishra formed subject matter of O.J.C. No. 2060 of 1985 (Transferred Application No. 45 of 1986). The said case was transferred under section 29 of the Administrative Tribunals Act, 1985 and it came up before this Bench for decision. Having noticed the judgment of the Hon'ble High Court of Orissa in the case of Subash Chandra Panda and having further noticed that the Central Government have given effect to the said judgment of the Orissa High Court and the facts of both the cases being similar in nature this Bench by its judgment dated 4.8.1986 held that the petitioner Nrusingha Prasad Mishra was entitled to the higher pay scale as prescribed in the 3rd Pay Commission report. Though this judgment was delivered on 4.8.1986, as yet this judgment has not been set aside and therefore the view propounded by us in the said judgment still stands good in the field. Comparing the facts of the present case with that of the case of Subash Chandra Panda and Nrusingha Prasad Mishra we find that they are exactly similar in nature and therefore we find no reason to take any other view in the matter except the view taken by the Orissa High Court and ourselves in the judgments mentioned above.

In the circumstances stated above, we are of opinion

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that both the applicants in this case are entitled to higher scale of pay. The applicant no.1 is entitled to the scale of pay of Rs.550-900/- from 1.5.1975 to 13.8.1981 and also the scale of pay of Rs.650-1200/- from 14.8.1981. The applicant No.2 is also entitled to the higher scale of pay namely Rs.650-1200/- from 12.11.1973 and accordingly we would direct the Respondent No.2, Chief Administrator, Dandakaranya Development Authority to fix the scale of pay accordingly of both the applicants and we hope that the arrears to which the applicants are entitled according to the pay scale mentioned above should be paid to them within three months from the date of receipt of a copy of this judgment.

5. Thus, this application stands allowed leaving the parties to bear their own costs.

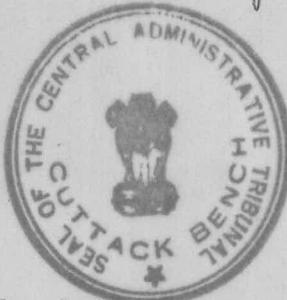
Agreed *MP*
 *30.7.87*
 Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

g agree

Am. Nihal *30.7.87*

 Vice-Chairman



Central Administrative Tribunal,
 Cuttack Bench, Cuttack.
 July 30, 1987/S. Sarangi.