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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION NO 2 OF 1987

Date of decision

.. 9th September, 1987

Manoharlal
S/O Late Tappan Das,
Zonal Workshop, P.O. Malkangiri,
Colony, Distt. Koraput
(Orissa) - 764 048

.... Applicant

Versus

1. Union of India represented by
Secretary, Department of Internal Security,
Rehabilitation Division,
Jaisalmer House,
Mansingh Road,
New Delhi-110011.

2. Chief Administrator,
Dandakaranya Project, Project Headquarters,
Dist. & P.O. Koraput,
Orissa, Pin-764020.

.... Respondents

Mr A.K Mohapatra
Advocate

... For Applicant

Mr A.B Misra,
Senior Standing Counsel(Central) ...

For Respondents

...

Coram

The Hon'ble Mr B.R Patel, Vice-Chairman
and

The Hon'ble Mr K.P Acharya, Member(Judicial)

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1. Whether reporters of local papers have been permitted 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, the petitioner prays to command the Respondents- Opposite Parties to give him the pay scale prescribed for selection grade post in respect of Automobile Drivers employed under Dandakaranya Development Authority.

2. Shortly stated the case of the petitioner is that he has been working as a Driver under the Dandakaranya Development Authority for long time and his grievance is that the Government of India having sanctioned selection grade post, one such post should have been given to the petitioner entitling him to draw the pay scale of Rs.330-480. Further prayer is that the Respondents- Opposite Parties be commanded to give him the above mentioned pay scale.

3. In their counter the Opposite Parties maintained that no post carrying selection grade in the category of Drivers having been prescribed by the Fourth Pay Commission, the Government is not in a position to create any post of selection grade for the Drivers in the Dandakaranya Project and in such circumstances the petitioner is not entitled to draw the pay scale as prayed for by him and the case being devoid of merit, is liable to be dismissed.

4. We have heard Mr A.K Mohapatra, learned counsel for the petitioner and Mr A.B Misra, learned Senior Standing Counsel (Central) at some length. Mr Mohapatra submitted that the Government having once created posts of selection grade

vide their letter No.7(35/85-Admn-III dated 17 September 1986 should not go back upon their own commitment, just because the Fourth Pay Commission had recommended abolition of all the selection grade posts. It was submitted by Mr Mohapatra at the time when this letter was issued by the Government, it was well aware of the recommendations of the Fourth Pay Commission and therefore at a belated stage the Government should not go back upon its own commitment. We have perused the contents of the above mentioned letter. True it is, that the Government in paragraph 3 of the said letter stated that ' the selection grade for the above posts may be given effect to from the date of issue of this order '. Order has been issued on 17 September 1986. Be that it may, the Government ~~cannot or should not over-ride~~ ^{having accepted} the recommendations of the Fourth Pay Commission which was given into effect from 1st January 1986. Such being the situation, we find no merit in the contention of Mr Mohapatra and therefore we find no merit in the case itself.

5. As a last straw on the camel's back, Mr Mohapatra submitted that leave be granted to the petitioner to move the Government to reconsider its views. For this no leave is required. We have no objection if the petitioner moves for reconsideration.

6. ^{thus} Thus the application is accordingly disposed of

leaving the parties to bear their own costs.

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VII
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Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN

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9.9.88
B.R. PATEL
Vice-Chairman



Central Administrative Tribunal,
Cuttack Bench, Cuttack
September 9, 1988/N.J.Joseph, Sr. P.A.