

11

3

7

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION No.25 OF 1987.

Date of decision .. August 19, 1987.

Om Prakash Ram .. Applicant.

Versus

Union of India & others .. Respondents.

M/s B.Pal, B.Baug &
O.N.Ghosh, Advocates .. For Applicant.

Mr. A.B.Misra, Sr. Standing
Counsel (Central) .. For Respondents.

C O R A M :

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

-
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 .
-

J U D G M E N T

B.R.PATEL, VICE CHAIRMAN, The applicant is an Assistant Teacher of a Primary School under the Dandakaranya Development Authority. He was appointed as such with effect from 6.11.1984 in the scale of Rs.225/- to Rs.350/-. His grievance is two fold, namely (1) he should not be surrendered to the State Government of Madhya Pradesh for eventual absorption in the State cadre and (2) he should be given the scale of pay of Rs.260/- to Rs.430/- with effect from the date of his appointment.

2. The respondents have maintained in their counter that the action taken by the Dandakaranya Development Authority is according to the rules and there being no illegality committed, the orders passed by the competent authority should not be interfered with.

3. I have heard Mr. B.Pal, learned counsel for the applicant and Mr. A.B.Misra, learned Senior Standing Counsel for the Central Government. Mr. Pal has urged that the Dandakaranya Development Authority has no authority to send the applicant to the State Government of Madhya Pradesh instead of surrendering him to the Central (Surplus Staff) Cell and has drawn my attention to Annexure-5. This annexure is the office memorandum of the Dandakaranya Development Authority dated 27.5.1982. Before this memorandum was issued, the decision of the authority was that all direct recruits are liable for transfer to the State cadre and the State

B.R. Patel

scale of pay as prescribed by the State Government in the event of transfer of the institution to the State Government. This decision was reviewed and paragraph 2 of the memorandum indicates that the Chief Administrator was pleased to repeal the above condition in the offer of appointment and that such condition may not be incorporated in future orders. Annexure-6, however, modifies the office memorandum referred to at Annexure-5. Mr. Pal has questioned the legality of Annexure-6. Mr. A.B. Misra, learned Senior Standing Counsel has, however, placed before me the undertaking given by the applicant, vide Annexure-R/2. By Annexure-R/2, the applicant has undertaken that in the event of transfer of institution, he would go over to the respective State Government along with the institutions. I have also noticed that in Annexure-R/3, the applicant has already joined the Madhya Pradesh State service since 19.5.1986. This matter has, therefore been settled and cannot be re-opened now. Mr. Pal also does not press this point for relief in view of the undertaking given by the applicant at Annexure-R/2. The only point that now remains to be considered is about the pay scale he should be entitled to.

4. Mr. Pal, learned counsel for the applicant has drawn my attention to paragraph 11 of the counter filed by the respondents. This paragraph reads as follows :

" That the facts stated in para 6(18) of

[Signature]

applicant's application are not fully correct . The pay scale of Rs. 260-430/- claimed by the applicant is applicable to the Trained Matriculate Teachers as per CCS (Revised Pay) Third Amendment Rules, 1975. It is seen from the service records of the applicant, he is only Trained non-Matriculate as per his own statement at para 6 (1) of the application. Accordingly , he is entitled to the pay scale of Rs.260-400/- from 6.11.1984 as per the decision of the Hon'ble High Court of Orissa in OJC No. 657/79 and orders thereon of Government of India and Rs.950-1500/-from 1.1.1986 to 8.5.1986 from the Project as said above as per the recommendation of Fourth Pay Commission. Hence, his claim for the pay scale of Rs.260-430/- which is applicable to the Trained Matric Teacher is denied ".

The respondents have thus conceded that the petitioner is entitled to the scale of pay of Rs.260-400/-. Admittedly , the applicant is non-Matric Trained Teacher and this is the scale allowed to Trained non-Matriculate on the basis of the recommendation of the Third Pay Commission. Since the scale of Rs.260-430/- is for Trained Matric Teacher and the applicant is admittedly a non-Matric Trained Teacher, he is entitled to Rs.260-400/- instead of Rs.260-430/- and the scale of pay to which he is entitled to should be given to him with effect from the date of his appointment i.e, 6.11.1984. He should also be given all the arrears pay and allowances as

[Signature]

admissible within three months from the date of receipt of a copy of this judgment.

5. The application is thus partly allowed leaving the parties to bear their own costs.



Brashil 19.8.87
.....
Vice Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
August 19, 1987/Roy.