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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH ~~is~~ CUTTACK.

Original Application No.27 of 1987.

Date of decision : January 13, 1989.

Narsing Prasad Palo, son of late
Radhakrushna Palo, At & P.O.Jeypore,
District-Koraput, Orissa.
Statistician in the Transport and
Workshop Department, Dandakaranya
Development Authority, At & P.O.Ambaguda,
District-Koraput.

...

Applicant.

Versus

1. Union of India, through the Secretary,
Ministry of Home Affairs, Department of
Home Affairs, Rehabilitation Wing,
Jaisalmer House, Mansingh Road,
New Delhi-110 011.

2. Chief Administrator,
Dandakaranya Development Authority,
At & P.O.Koraput, District-Koraput.
Orissa. ...

Respondents.

For the applicant ... M/s.B.Pal,
O.N.Ghose,
B.Baug, &
S.C.Parija, Advocates.

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

Mr.Tahali Dalai, Additional
Standing Counsel (Central)

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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)

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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.

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JUDGMENT

K.P.ACHARYA, MEMBER (J)

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for regularisation of his service as a Statistician in the Dandakaranya Development Project and so also for higher pay scale at the rate of Rs.380-560/- as a Head Time Keeper which is his substantive post.

2. Shortly stated, the case of the applicant is that he was initially appointed as a Time Keeper under the Dandakaranya Development Authority and at present is serving as a Statistician in the Central Work Shop, Ambaguda. Further case of the applicant is that the Third Pay Commission having recommended the pay scale of Rs.380-560/- for those incumbents who were drawing the pay scale of Rs.150-240/-, gross illegality has been committed by the concerned authorities in fixing the pay scale of Rs.330-480/- in respect of the applicant. Hence, the aforesaid prayer.

The next prayer of the applicant is that the applicant should be regularised in the post of Statistician as he has already served for nearly three years.

3. In their counter, the respondents maintained that the pay scale for Head Time Keeper having been specifically recommended by the Third Pay Commission at Rs.330.480/-, the authorities had no other option but to grant the pay scale of Rs.330-480/- to the applicant as Head Time Keeper and furthermore it is maintained in the counter that though the applicant was promoted to the

post of a Statistician on ad hoc basis, regular incumbent in respect of the said post having come back there was no other option left for the competent authority but to order reversion of the applicant to his substantive post of Head Time Keeper and in such circumstances, there is absolutely no merit in the case of the applicant to retain him or regularise him in the post of a Statistician. In a crux, it is maintained by the respondents that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.B.Pal, learned counsel for the applicant and Mr.Tahali Dalai, learned Additional Standing Counsel (Central) at some length. Mr.Pal drew our attention to the contents of Annexure-2 which contains the recommendation of the Third Pay Commission. Therein, it is stated as follows :

" 1. All posts in the present scale
specified in Col.3

(a) (i) 205-7-240 X
 (ii) 175-240 X 380-560
 (iii) 150- 240 X

(4) *ibid.* Hence all posts in the present scales specified in column (3) *ibid* of Workshop staff also can be given pay scales in column (4) thereof. ".

Though, initially Mr.Pal had emphatically urged before us that the applicant is entitled to a pay scale of Rs.380-560/- relying on the contents of Annexure-2, yet very fairly Mr.Pal, after perusing the contents of Annexure-R-1 conceded that it would not be possible on his part to press before this Bench for commanding the

respondents to give a pay scale to the applicant at the rate of Rs.380-560/- . Annexure-R 1 is the extract of the Third Pay Commission report dealing with pay scales of Head Time Keeper in Chapter 46 of their report. The Third Pay Commission has recommended the pay scale of Rs.330-480/- in respect of Head Time Keeper whose pay scale was originally fixed at Rs.150-240/-. In such circumstances, Mr.Pal very fairly conceded and we record our deep appreciation for the fairness shown by Mr.Pal. In view of the aforesaid facts and circumstances, we find no merit in the case of the applicant as prayed in his application for grant of pay scale of Rs.380-560/-, in his favour.

5. Next, coming to the prayer of the applicant for regularising his services as Statistician, we would say that vide Annexure-8 dated 17.1.1983 the applicant was directed to remain exclusively in charge of the post of Statistician with effect from 17.1.1983 and vide Annexure-9 dt.26.4.1983 the applicant was appointed temporarily on ad hoc basis for a period of three months as Statistician with immediate effect. Vide Annexure-10 dated 23.10.1984 the applicant was ordered to be reverted to his substantive post of Head Time Keeper as one Shri D.K.Ghosh was repatriated to the post of a Statistician. But admittedly the applicant was not physically reverted to the post of Head Time Keeper as it would appear from Annexure-11 dated 25.3.1985 wherein it is stated that the applicant is allowed to continue as a Statistician. Vide Annexure-12 dated 26.11.1986, the

applicant was ordered to be reverted to the post of a Head Time Keeper and by virtue of the stay order passed by this Bench on 30.1.1987 and by virtue of order dated 16.2.1987 we allowed the stay order to continue and this was repeated on 27.2.1987. Mr. Pal drew our attention to the representation of the applicant contained in Annexure-13. In the last paragraph of the representation it is stated as follows :

" In case your honour do not consider my case for regularisation, I may be continued at least for one and half year or upto the existence of Central Workshop as Statistician on ad hoc basis so that I will not be put to any loss at the time of voluntary retirement and moreover Govt. will also be not put in loss by utilising my service for atleast one and half year at this shrinking stage of the project. "

The representation is dated 27.11.1986 and it was rejected vide Annexure-14 dated 1.1.1987. At the risk of repetition, we may say that by virtue of the stay order the applicant is continuing as a Statistician and he has been in the post for about two years from the date of his representation. Though, the purpose for which the representation had been filed by the applicant has been served yet we feel that the Chief Administrator, Dandakaranya Development Authority would reconsider the representation and if possible, the applicant should be allowed to continue as a Statistician till the Central Workshop is finally wound up. Ofcourse, we do not fetter the discretion of the Chief Administrator because while reconsidering the representation of the applicant, the Chief Administrator is bound to take into consideration the vacancy position and the relevant rules on the subject. But

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however we strongly feel that the representation would be sympathetically considered by the Chief Administrator.

6. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

Sarangi
.....13.1.89.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

Ranbir
13.1.89
.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
January 13, 1989/S.Sarangi.