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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

Original Application No. 330 of 1987.

Date of decision .. November 30, 1988

Amaresh Chandra Das, son of Mahendranath Das,
Chairman, working under Zonal Administrator,
Land Survey Section, D.N.K. Project, Malkangiri,
Koraput- 764 048.

... Applicant.

Versus

1. Union of India, represented by the Secretary,
Ministry of Home Affairs, Department of
Internal Security Rehabilitation Division,
Jaisamler House, Mansingh Road, New Delhi-110011.
2. Chief Administrator, Dandakaranya Project,
Project Headquarters, Koraput- 764 020.

... Respondents.

Mr. C.A.Rao, Advocate

... For Applicant.

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

... For Respondents .

C O R A M :

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

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1. Whether reporters of local papers may be
permitted to see the judgment ? Yes.
 2. To be referred to the Reporters or not ? *Yes*
 3. Whether Their Lordships wish to see the
fair copy of the judgment ? Yes.

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J U D G M E N T

K.P. ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to grant him a pay scale of Rs.800-1150/- which is the prescribed pay scale for Chainman working under the Indian Bureau of Mines.

2. Shortly stated, the case of the petitioner is that he was appointed as a Chainman under the Zonal Administrator of the Dandakaranya Development Project and he has been working as such since 9.3.1981. Petitioner claims a pay scale of Rs.800-1150/- which has been prescribed for the Chainmen working under the Indian Bureau of Mines.

3. In their counter, the Opposite Parties maintained that the petitioner is not entitled to the pay scale claimed by him because the nature and duty performed by a Chainman under the Indian Bureau of Mines is completely different from the work done by a Chainman working under the Dandakaranya Development Project. In these circumstances it is maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. I have heard Mr. P.K. Parida on behalf of Mr. C.A. Rao, learned counsel for the petitioner and Mr. A.B. Misra, learned Sr. Standing Counsel for the Central Government at some length. The undisputed position is that the petitioner is working as a Chainman under the Zonal Administrator, Dandakaranya Development Project since 9.3.1980 and further undisputed position is that the petitioner has been given a pay scale of Rs.750/- to Rs.940/-

according to 4th Pay Commission Report. Mr. Parida while

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advancing argument on behalf of the petitioner contended under the Indian Bureau of Mines that the Chainman/having been given a pay scale of Rs.800-1150/-, the Chainman working under the Dandakaranya Development Authority should also be given the same pay scale otherwise it would be a clear discrimination committed on the part of the Government thereby infringing the provisions under Article 14 of the Constitution. While repudiating this argument of the learned counsel for the petitioner, it was contended by Mr. A.B.Misra, learned Sr. Standing Counsel that the nature of work and duty performed by the Chainman under the Indian Bureau of Mines being completely different from the work and duty performed by a Chainman under the Dandakaranya Development Authority, rightly the Commission had recommended a higher pay scale for the Chainman working under the Indian Bureau of Mines because the Chainman working under the Indian Bureau of Mines performs a hazardous job taking great risk over his life by going under the earth while the mine is excavated. Such nature of duty not having been performed by the Chainman working under the Dandakaranya Development Project, there is bound to be a difference in the pay scale and question of discrimination and violation of Article 14 of the Constitution does not arise. Incidentally I may state that in the past while adjudicating the cases of several teachers working under the Dandakaranya Development Authority, the Hon'ble High Court of Orissa and this Bench have equalised the pay of teachers working under the Dandakaranya Development Authority with that of the teachers working under the Ministry of Railways and Defence because the nature and duty of the teachers of both sections appear to be

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similar in nature. In those judgments the High Court and this Bench had thrown the onus on the petitioners to satisfy the court that the work of both sections of teachers was equal in nature and therefore same pay scale was given to the teachers working under the Dandakaranya Development Authority like that of the teachers working under the Ministry of Railways and Defence. I would have readily accepted the submissions of the learned counsel for the petitioner if the onus which lies on the petitioner would have been satisfactorily discharged indicating that the nature of work between a Chairman working under the Dandakaranya Development Authority is the same as that of the work discharged by a Chairman working under the Indian Bureau of Mines especially when there has been a keen contest on behalf of the respondents that the nature of work is completely different. There being no evidence before me adduced on behalf of the petitioner that the nature of work is the same, I think there is no other alternative but to accept the contention of the learned Sr. Standing Counsel that the nature of work between the Chairman of the two different organisations is completely different and therefore rightly the Commission had recommended the higher pay scale for the Chairman working under the Indian Bureau of Mines. Learned counsel for the petitioner cited a judgment of Chandigarh Bench reported in A.T.R. 1988(2) CAT 44 (Rajinder Kumar Rawat & others vrs. Principal, Punjab Engineering College, Chandigarh). I have absolutely no dispute with the proposition of law laid down by the Hon'ble Judges of Chandigarh Bench. But the law

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enuniated in the said judgment has no application to the facts of the present case because of the reasonings given above.

5. In view of the aforesaid discussions, I find no merit in the application which stands dismissed leaving the parties to bear their own costs .



[Signature]
30.11.88
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Member (Judicial)
30.11.1988

Central Administrative Tribunal,
Cuttack Bench.
November 30, 1988/Roy, Sr.P.A.