

(21)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

Original Application No. 160 of 1989.

Date of decision : October 26, 1992.

Raja Kishore Mishra ... Applicant.

Versus

Union of India and another... Respondents.

For the applicant ... M/s. Jibesh Ch. Sahoo,
P.K. Mohapatra,
A.K. Patnaik, Advocates.

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

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C O R A M :

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

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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 ?
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes.

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JUDGMENT

K.P.ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the prayer of the applicant is to quash the order of Comptroller and Auditor General of India contained in Annexure-7 refusing to allow the pay of the applicant to be fixed in the grade of Section Officer keeping in view the pay drawn by the applicant in the grade of Divisional Accountant(un-qualified).

2. Shortly stated, the case of the applicant is that he was appointed as an Emergency Divisional Accountant by the Senior Deputy Accountant General(Works), Puri vide his order dated 29.2.1984. The applicant got promotion to the post of Section Officer in the Office of the Accountant General, Orissa, Bhubaneswar. The grievance of the applicant is that the pay drawn by him in the post of Emergency Divisional Accountant should be the basis for fixation of his pay as Section Officer. This grievance was put forth before the Comptroller and Auditor General of India. The representation was rejected vide Annexure-7 dated 12.10.1988 on the ground that the applicant being unqualified Divisional Accountant, as a special concession has been allowed the pay in the regular scale of pay applicable to the post of Divisional Accountant. Hence, unqualified Divisional Accountant who is drawing pay in that scale cannot have his pay as Section Officer fixed with reference to the pay drawn as an Emergency Divisional Accountant.

V/N

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3. In their counter, the respondents maintained that according to the provisions contained in para 314 of the Comptroller and Auditor General's Manual of Standing Orders (Administrative), Vol.I the applicant is not entitled to the benefit claimed in this petition.

4. There was no appearance on the side of the applicant and I have perused the pleadings of the parties and I have perused the relevant documents annexed as Annexures to the petition and the counter with the assistance of Mr. Ashok Mishra, learned Senior Standing Counsel (Central) whom I have heard in extenso. Mr. Mishra ~~draw~~ ^{provisions in} my attention not only to the Comptroller and Auditor General's Manual referred to above but he has drawn my attention to Annexures A to F and I have carefully gone through the same. Admittedly, the applicant got promotion from the post of Emergency Divisional Accountant to the post of Section Officer and at the time of promotion the applicant was unqualified Divisional Accountant. This being the admitted position I find that there is considerable force in the contention of Mr. Ashok Mishra, learned Senior Standing Counsel (Central) that the provisions contained in paragraph 314 of the C.A.G.'s Manual of Standing Orders will be applicable to the facts of the present case in full force and so also the directives contained in Annexures A to F. Hence, I find no merit in this application which stands dismissed leaving the parties to bear their own costs.



Central Admin. Tribunal.
Cuttack Bench, Cuttack.
October 26, 1992/sarangi.

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VICE-CHAIRMAN.

26-10-92