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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 517 of 1993

Date of Decision: 22.3.1994

Kamini Kanta Mohanty

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *NO*
2. Whether it be circulated to all the Benches of the *NO*
Central Administrative Tribunals or not ?

KM 22.3.94
VICE-CHAIRMAN

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Namini Kanta Mohanty

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.S.Kr.Mohanty
S.P.Mohanty
Advocates

For the respondents:1,2 & 3

Mr.Ashok Mishra,
Sr.Standing Counsel
(Central)

For the respondent: 4

M/s.P.V.Ramdas
P.V.Balakrishna Rao
Advocates

C O R A M:

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

JUDGMENT

MR.K.P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays for a decree to^{be} passed in his favour stepping up of his pay to bring at ~~in~~ par with that of his junior Shri Sudhakar Naik(OP No.4).

2. Shortly stated the case of the petitioner is that though he is senior to Shri Naik(OP No.4), yet, the petitioner is being given a lesser pay than OP No.4 which is against all canons of justice, equity and fair-play. Hence this application has been filed with the aforesaid prayer.

3. In their counter the Opposite Party Nos.1,2 and 3 maintain that the petitioner is senior to OP No.4 in the L.S.G. cadre and he is drawing lesser pay than OP No.4. But the question of bringing the petitioner's pay at par with

OP No.4 is under active consideration of the concerned authority. It is therefore, maintained that the matter should be left to the departmental authorities to pass necessary orders according to law.

4. I have heard Mr.S.P.Mohanty, learned counsel for the petitioner, Mr.Ashok Mishra, learned Senior Standing Counsel appearing for OP Nos.1,2 and 3 and Mr.P.V.Balakrishna Rao, learned counsel appearing for OP No.4 at a considerable length.

5. Admitted position is that the petitioner Shri Kamini Kanta Mohanty is senior to OP No.4 in the L.S.G. cadre. Shri Mohanty was promoted to the L.S.G. Cadre on 23rd July, 1976 against the vacancy arising in 1975. Further admitted case is OP No.4 was promoted to L.S.G. cadre on 21st June, 1977 against the vacancy pertaining to the year 1976. Thereafter both the petitioner and OP No.4 have been given promotion to the cadre of H.S.G.--II.

6. Promotion given to the petitioner and OP No.4 to H.S.G. cadre has no relevance to the issue required to be decided in this case. In view of the admitted position as stated above, it is against all canons of justice, equity and fair-play to allow a junior to draw a higher pay than the senior. When I felt inclined to pass a decree in favour of the petitioner, it was urged by Mr.Ashok Mishra, learned Senior Standing Counsel that the matter is under active consideration of the departmental authorities, and, therefore, it was premature on the part of the petitioner to run to the

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portals of the Court, and therefore, this matter should be left to the departmental authorities to finally adjudicate the same, and a direction to the above effect be given to the departmental authorities who have no other alternative but to carryout the directions of this Bench ^{to} determine the issues with ⁱⁿ a stipulated period.

7. Ordinarily I would not have disagreed with Mr. Ashok Mishra, learned Standing Counsel. But, here is a case, where the departmental authorities are devoting their active consideration since 1991. It is shocking to note that the interest of a particular employee in the postal department goes unattended since 1991. I cannot comprehend that the officer/officers who have devoted their so-called active consideration to the case of the petitioner ~~will be~~ suffering from same plight when their financial emoluments would be under active consideration by their higher authorities for such a long time. I leave it to the Chief Post-master General to give his serious thought and consideration to the snail speed in which ~~the~~ ^{moving} matters of this nature are ~~moved~~ ⁱⁿ. In the circumstances stated above, I find no justifiable reason to leave this matter any further to the departmental authorities as it is not known how long they will take to finalise their active consideration. Therefore, it is directed that pay of the petitioner be brought in par with OP No.4 with effect from the date on which OP No.4 was given a higher pay than the petitioner and at the same time I would say that the

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higher pay given to the OP No.4 should not be disturbed because the service jurisprudence is settled that the benefit already given to a particular employee should not be disturbed or worked out to his disadvantage.

Therefore, the pay drawn by OP No.4 shall go un-disturbed. Arrears, to which the petitioner is entitled to, be calculated and paid to the petitioner within 45 days from the date of receipt of a copy of the judgment; failing which the defaulting officer will be liable to pay interest at the rate of 12 per cent per annum. Thus the application stands allowed leaving the parties to bear their own costs.

8. A special copy of the judgment be sent to the Chief Post-master General, Bhubaneswar inviting his special attention to the observations made by this Bench, so that the C.P.M.G. will be in a position to look into the matter and determine the reasonableness of ^{causing} imposing such enormous delay.

B.K. Sahoo
22.3.94
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 22.3.1994/ B.K. Sahoo