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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 260 OF 1994

Cuttack, this the 27th day of May, 1997

Tapan Kumar Behera

.....

Applicant

Vrs.

Union of India & others

.....

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? Yes
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? NO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 27.5.97

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CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH,
CUTTACK

ORIGINAL APPLICATION NO.260 OF 1994
Cuttack, this the 27th day of May, 1997

CORAM:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

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Tapan Kumar Behera,
aged about 43 years,
son of Shri Manatosh Behera,
Superintendent of Police-I,
Orissa Police Computer Centre,
Bhubaneswar

....

Applicant

-versus-

- A) Union of India,
represented through Secretary,
Home Department, Central Secretariat,
Government of India, New Delhi
- B) State of Orissa, represented through
Secretary, Home Department, Secretariat
Building, Bhubaneswar.
- C) Director General of Police and I.G. Police,
Orissa, Cuttack

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Respondents

Advocates for applicant -

M/s J.K.Misra, N.C.Misra,
Saroj Kr.Das &
B.P.Mohanty.

Advocates for respondents -

Mr.U.B.Mohapatra
(For Respondent 1)

Mr.K.C.Mohanty,
Govt.Advocate
(For Respondents 2 & 3)

O R D E R

Somnath Som
27.5.97

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of the

Administrative Tribunals Act, 1985, the applicant has prayed

for fixing his pay in the scale of pay of Rs.4500-5700/- meant for Superintendent of Police-I, Computer, Bhubaneswar, with effect from 27.2.1992.

2. In this 1994 matter, counter has been filed in February, 1995 and rejoinder has also been filed on 24.2.1995, but the matter did not come up for adjudication. On 17.3.1997 it was ordered that the matter would be heard on the limited question of jurisdiction of the Tribunal. On 18.3.1997 the learned lawyer for the applicant was absent as he could not be informed by the learned Government Advocate about the date. On 21.3.1997 the applicant appeared in person and it was indicated to him that the question of maintainability and jurisdiction would be considered first. Thereafter, two adjournments had been given on 13.5.1997 and 20.5.1997. On both these occasions, the learned lawyer for the applicant was absent and the applicant also did not appear in person. Therefore, the matter was fixed for peremptory hearing on 26.5.1997. On 26.5.1997 the learned lawyer for the applicant did not appear and the applicant himself was also absent. Therefore, the matter has been taken up without hearing the learned lawyer for the applicant or the applicant in person. For determining the question of jurisdiction and maintainability, facts of this case, as alleged by the applicant in his Original Application, have to be noted. On 27.2.1992 the applicant joined as Superintendent of Police-I, Computer, in Orissa Police Computer Centre, Bhubaneswar, in pursuance of Government notification dated 19.2.1992 (Annexure-1). According to the application, the post of Superintendent of Police-I, Computer, was created for the first time on 20.9.1982 in the Senior Time Scale of Indian Police Service and the post of Superintendent

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of Police-I, Computer, is meant for officers of Indian Police Service cadre. According to the applicant, this post carries scale of pay of Rs.4500-5700/- with usual allowances. Earlier, the applicant was working in the post of Superintendent of Police-II, Signals, in the scale of pay of Rs.3000-4500/- and he was brought over to the cadre post of Indian Police Service, according to his submission, with effect from 27.2.1992 and therefore, he wants his pay to be fixed in the scale of Rs.4500-5700/- with effect from his joining on 27.2.1992. From the above, it is clear that the applicant is not a member of Indian Police Service. His present prayer is to get the scale of pay of the post of Superintendent of Police-I, Computer, which, according to him, is in the Indian Police Service cadre with the scale of pay of Rs.4500-5700/-.

3. I have heard the learned Government Advocate appearing on behalf of respondents 2 and 3. It is clear from the averments as made by the applicant in his Original Application that his alleged grievance does not come within Section 14 of Administrative Tribunals Act, 1985. Under Section 14 of Administrative Tribunals Act, 1985, the Tribunal is required to deal with recruitment, and matters concerning recruitment, to any All India Service or to any civil service of the Union or a civil post under the Union. Besides, the other items which come within the jurisdiction of the Tribunal are all service matters concerning a member of All India Service, or a person appointed to any civil service of the Union or any civil post under the Union. None of these clauses covers the case of the applicant. He is a State Government employee and according to the averments made in his application, he has worked against what he alleges to be

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an Indian Police Service post and he wants the pay of that post. The learned Government Advocate has brought to my notice a Division Bench decision of Chandigarh Bench of the Tribunal in the case of Ram Saran Dass v. State of Punjab, ATR 1988(1)CAT 163, where Section 14 of Administrative Tribunals Act, 1985 has been elaborately examined. That was a case where a Provincial Civil Service officer was not allowed to cross his Efficiency Bar. He was subsequently promoted to Indian Administrative Service and filed the case before the Tribunal for quashing the order withholding his pay at the stage of Efficiency Bar. In that case, the Division Bench of the Tribunal held that as the applicant at the relevant time was not a member of Indian Administrative Service, his case was not within the jurisdiction of the Tribunal. On the same logic, the case of the present applicant also does not come under the jurisdiction of the Tribunal. In view of this, the Original Application is returned to the applicant, keeping copy of the application and all the annexures in our record, for him to present it before the appropriate court of law, if he is so advised.

The O.A. is disposed of in terms of the above order.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.5.97