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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 608 of 1994

Cuttack this the 21st day of March, 1995

K.N. Biswal

Applicant(s)

Versus

Union of India & Others Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ?


(D.P.HIREMATH)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 608 of 1994

Cuttack this the 21st day of March, 1995

C O R A M:

THE HONOURABLE MR. JUSTICE D.P. HIREMATH, VICE-CHAIRMAN

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Shri Kedar Nath Biswal, aged about 43 years
 Son of Srinibas Biswal, at present working
 as L.S.G.P.A., Savings Bank Control
 Organisation, Cuttack General Post Office,
 Town & District: Cuttack

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Applicant

By the Advocate: M/s. Deepak Misra, R.N. Naik,
 A. Deo, B.S. Tripathy,
 P. Panda, D.K. Sahu,
 P.K. Misra, M.P.J. Ray

Versus

1. Union of India, represented by its Secretary, Ministry of Communications, Department of Posts, New Delhi
2. Chief Post Master General, Orissa Circle, Bhubaneswar, District: Khurda
3. Senior Superintendent of Post Offices, Cuttack City Division, Cuttack
4. Shri P.K. Mohanty, Lower Selection Grade Postal Assistant, Savings Bank Control Organisation, Rourkela Head Office, Rourkela, District: Sundargarh

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Respondents

By the Advocate: Shri Ashok Mishra,
 Sr. Standing Counsel (Central)

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O R D E R

D.P. HIREMATH, V.C.: Heard Shri B.S. Tripathy, learned counsel for the applicant and Shri Ashok Mishra, learned Senior Standing Counsel for the Respondents 1 - 3.

2. It is the grievance of the petitioner that he is getting lesser pay than Respondent 4, Shri P.K. Mohanty, though Respondent 4 happens to be junior to the petitioner. The gist of the Respondents' defence is that such



fixation of pay came to be made in view of the department's circular (Annexure-R1 dated 4.11.1993) in which under para 2(b) it is envisaged that the increased pay drawn by a junior due to adhoc promotion in the cadre, the increased pay either due to adhoc officiating or regular service rendered in the higher posts for periods earlier than the senior, cannot be considered anomaly in the strict sense of the term. The rider, however, would be found in the earlier part of the circular that the senior must have foregone his promotion leading to his junior being promoted or refused to take promotion.

In sub-para(e) it is stated that where a person is promoted to a higher post his pay is fixed with reference to the pay drawn by him in the lower post under F-22-C and he is likely to get more pay than a direct appointee whose pay is fixed under different set of rules. This circular came to be considered by this Tribunal in an earlier case under similar circumstances in Original Application No.457 of 1993, decided on 13.1.1994 in which it was clearly held that it would be unjust to deprive a senior of his legitimate dues and also to maintain his pay at a scale lower than that of his junior.

3. What is striking in the instant case is that admittedly the increments earned by Respondent 4 during the period when he officiated on adhoc

promotion in the U.D.C. cadre have augmented his pay. In my view the decision of this Tribunal in the earlier case of Dandadhara Behera vs. Union of India, referred to above has settled the position in the facts and circumstances of the instant case. For the only reason that the circular has been issued stating that in such eventuality the anomaly does not exist and the stepping up of pay of the petitioner is not admissible, the petition is therefore meritorious and the petitioner is certainly entitled to stepping up of his pay as prayed for which shall be fixed on par with that of Respondent 4. ^{from} the date on which Respondent 4 started getting the pay at a higher rate than the petitioner within 60 days from the date of receipt of a copy of this order.

The application is allowed. No costs.

11/1/2000.


(D.P. HIREMATH)
VICE-CHAIRMAN

B.K.Sahoo//