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CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

ORIGINAL APPLICATION NOS. 193 & 194 of 1995

Cuttack this the 26th day of August, 1996

C O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

...

IN O.A. 193/95

Kishore Padhi
aged about 60 years
S/o. Madhusudan Padhi
Retired as Constable,
Central Bureau of Investigation
Special Police Establishment,
Orissa Branch, Bhubaneswar and
presently residing at CBI Colony
Bhubaneswar

IN O.A. 194/95

T. Narayan Murty
aged about 52 years,
S/o. Late Bal Subudhi
Presently working as
Constable, Central Bureau
of Investigation, Orissa
Bhubaneswar

... Applicants

By the Advocate:

M/s. S.K. Padhi
S. Parida
Miss D. Mohapatra

Versus

1. Union of India represented through the Secretary, Ministry of Personnel & Administrative Reforms, New Delhi
2. Director of Central Bureau of Investigation, C.G.O. Complex, Lodhi Road, New Delhi
Dist: Delhi
3. Special Superintendent of Police, Central Bureau of Investigation, Unit - 8, Bhubaneswar
Dist: Khurda

By the Advocate:

... Respondents
Mr. U.B. Mohapatra,
Addl. Standing Counsel (Central)

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O R D E R

MR.N. SAHU, MEMBER (ADMN) : Heard Shri S.K.Padhi, learned counsel for the applicant and Shri U.B.Mohapatra, learned Additional Standing Counsel for the Respondents separately on O.A.193/95 & O.A.194/95

2. Common grounds are involved in these two Original Applications. The dispute arises out of common facts. Therefore, both the Original Applications are disposed of together in a common order.

3. For the purpose of understanding the dispute, the facts in Original Application 194/95 are highlighted. The facts in the case of O.A.193/95 more or less are similar.

4. The applicant joined ~~joined~~ the State Police as Constable on 1.1.1962. He went on deputation to CBI on 9.6.1974. He was permanently absorbed in the CBI from 1.1.1983. Five others like the applicant have been taken on deputation as Constable to CBI from the Orissa State Police. They are S/Shri B.C.Das, B.K.Palei, P.Sahoo, P.Routray & A.C.Pattnaik. All of them are admittedly junior to the applicant in the Orissa State Police and were sent on deputation to CBI much after the applicant came on deputation and were absorbed by the CBI on 1.3.1985, i.e. after the applicant was absorbed. In terms of the judgment of the Central Administrative Tribunal, Principal Bench, New Delhi, the pay scale of one Shri P.Routray was modified and fixed at Rs.2297 ^{W.C.F. 1.2.86.} on 18.8.1994. In this revision the Fourth Pay Commission scale as on 1. 1. 1986 was given effect to. Shri P.Routray drew Rs.1175 as basic pay and Rs.1122 as personal pay. The applicant's pay

was fixed at Rs.1375/- . The applicant wants stepping up of his pay to that of Shri Routray.

4. In the counter-affidavit, it is stated that on the date of absorption, viz., 1.1.1983, the applicant received basic pay of Rs.180 in Orissa State scale of pay and Central scale of pay on 1.1.1983 was slightly different. But substantially it did not benefit much. As on 1.1.1986 the applicant was in receipt of basic pay of Rs.308 whereas Shri P.Routray was in receipt of the same basic pay but along with a personal pay of Rs.554/- . This is because Shri Routray on account of joining the CBI later and getting himself absorbed later received higher pay scale in the State of Orissa and this was protected while fixing his pay in Central scale. In view of the recommendation of the 4th Pay Commission, the pay of Shri Routray was fixed at Rs.1150/- and he was allowed to draw a personal pay of Rs.1147 by way of pay protection whereas the applicant's pay was fixed at Rs.1150 as on 1.1.1986. The Orissa Police scales were higher which advantage enured in Shri Routray's favour because he joined CBI later. Unfortunaly for the applicants, they got absorbed earlier in the CBI. If the applicants would have continued in Orissa Police a little longer and migrated to CBI, along with Shri Routray they could have enjoyed the higher pay scales revised in the Orissa Police and as such

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they could have drawn the same higher pay and the similar pay protection by way of personal pay would have been extended to them. The Supreme Court has observed in their judgment dated 13.1.1989 in Civil Appeal No.307, 316 of 1988 in State of A.P. and Others vs. G.Sreenivasa Rao and Others (1989 SCC (L&S) 339 as follows :

"Ordinarily grant of higher pay to a junior would ex facie be arbitrary but if there are justifiable grounds in doing so the seniors cannot invoke the equality doctrine. To illustrate when pay fixation is done under valid statutory rules/executive instructions, when persons recruited from different sources are given pay protection, when promotee from lower cadre or a transferee from another cadre is given pay protection, when a senior is stopped at efficiency bar, when advance increments are given for experience/passing a test/acquiring higher qualifications or as incentive for efficiency are some of the eventualities when a junior may be drawing higher pay than his seniors."

5. This is a case where due to fortuitous circumstances the applicants did not get the pay revision of the Orissa State Police because they migrated to CBI earlier than Shri Routray and by the time they were absorbed, there was no pay revision in Orissa State Police. If there was any scope, the applicants would have demanded the adequate pay revision from Orissa State Police itself. As it is there is no merit in this case.

The applications are dismissed. No costs.

Sd/- N. SAHU
(N. SAHU)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//