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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 441 OF 1995
Cuttack, this the 6th day of May, 1997

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN.

.....

Sri Padmanav Nayak, aged about 44 years,
son of Krushna Chandra Nayak,
Village-Champapal, P.O.-Haladiadiha,
Via-Singhpur, District-Jajpur,
at present working as Lower Division Clerk
in the office of the Deputy Director General,
Geological Survey of India Operation,
Orissa, Unit-VIII, Nayapalli, Bhubaneswar- 12 ... Applicant

-versus-

1. Union of India, represented by the
Secretary, Department of Mines, Central
Secretariat, Shastri Bhawan, New Delhi-110 001.
2. The Director General,
Geological Survey of India,
27, Jawaharlal Nehru Road,
Calcutta-700 016.
3. The Deputy Director General,
Geological Survey of India,
Eastern Region, 5th Floor, A-Block,
Block-DF, Salt Lake, Calcutta- 64
4. The Deputy Director General,
Geological Survey of India Operation,
Orissa, Unit-VIII, Nayapalli, Bhubaneswar-12.
5. The Administrative Officer/D.D.O.,
Geological Survey of India Operation,
Orissa, Unit-VIII, Nayapalli,
Bhubaneswar- 12.

..... Respondents.

Advocates for applicant - M/s G.B.Dash & A.K.Swain.

Advocates for respondents - Mr.Ashok Misra
Mr.Ashok Mohanty
Mr.B.N.Mohanty.

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S.SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for modification of order dated 8.8.1994 (Annexure-3) issued by respondent no.3 and for paying him pay, dearness allowance, additional dearness allowance, increments, house rent allowance, over-time allowance, city compensatory allowance, etc., from the date of his initial appointment, i.e., from 11.11.1975, under the respondents. He has also asked for counting the period from 11.11.1975 to 10.8.1994 for the purpose of pension and pensionary benefits and all other service benefits.

2. Facts of this case are that the applicant was initially appointed as a contingent worker under Deputy Director-General, Geological Survey of India, Bhubaneswar and he continued as such from 11.11.1975 to 31.12.1978. From 1.1.1979 to 31.12.1981 he became semi-skilled contingent worker. From 1.1.1982 to 5.6.1988 he continued as skilled contingent worker and from 6.6.1988 he worked as contingent Lower Division Clerk. In O.A.No.616 of 1993, decided on 27.4.1994, the following order was passed:

"...Therefore, while relaxing the age bar, we would direct that the petitioner Shri Padmanav Nayak be regularised in the post of Lower Division Clerk which he is holding and such regularisation will take effect from the date of order of appointment.

5.As regards payment of emoluments to the petitioner on prorata basis viz. the basic pay scale with additional D.A. etc. as drawn by the other L.D.Clerk(s) should be paid to the petitioner in accordance with the judgment of the Hon'ble Supreme Court reported in AIR 1986 SC 584 (Surinder Singh vs.Union of India & others) AIR 1987 SC 2342 (Bharatiya Dak Tar Mazdoor Manch vs. Union of India & others) etc. Arrear emoluments w.e.f 1975 be calculated and paid to the petitioner within 90 days from the date of receipt of a copy of the judgment. Thus the application is accordingly disposed of..."

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In pursuance of the above order, the respondents regularised his services and appointed him as Lower Division Clerk in order dated 8.8.1994 (Annexure-3) and accordingly he joined on 11.8.1994. The admitted case between the parties is that from 11.8.1994 he is getting the salary and all other allowances admissible to a Lower Division Clerk like any other. In the present application, he has asked for his appointment as Lower Division Clerk from the date of his initial engagement by the respondents from 11.11.75 and also salary and other allowances from that date. This very point has been considered and disposed of by the Tribunal in the order quoted above. The Tribunal has ordered that the applicant should be appointed as Lower Division Clerk prospectively and not from the date of his initial engagement. For the period from his initial engagement as a contingent worker and thereafter as a ^{contingent worker} skilled and skilled / and contingent Lower Division Clerk, the Tribunal has ordered that he should be paid basic pay and additional dearness allowance on pro rata basis, as has been decided by the Hon'ble Supreme Court in the case of Surinder Singh vs. The Engineer in Chief, C.P.W.D., and others, AIR 1986 SC 584, as also in the case of Daily Rated Casual Labour employed under P & T, Department through Bharatiya Dak Tar Mazdoor Manch v. Union of India and others, AIR 1987 SC 2342. So the same issue cannot be agitated by the applicant again in this application. Therefore, his prayer for regularisation of services from 11.11.75 to 10.8.1994 and for counting this period for the purpose of pension and pensionary benefits and other consequential benefits must be rejected. On the same logic, he cannot be allowed increments, house rent allowance, city compensatory allowance, etc., for the above period. As regards overtime allowance, it was

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submitted by the learned lawyer for the applicant that during this period from November 1975 till August 1994, on the days he worked over time, overtime payment has been made to him but at a lesser rate and not at the rate applicable to Lower Division Clerks. As according to the order of the Tribunal, he has been treated as Lower Division Clerk only from 11.8.1994 when he joined, he cannot get overtime payment at the rate applicable to Lower Division Clerks for the work done prior to that date. This prayer is also, therefore, rejected. In the Original Application, no mention has been made of medical reimbursement, but in course of his submission, the learned lawyer for the applicant submitted that during the intervening period he should be paid medical reimbursement. This again is not permissible in view of the order of the Tribunal in OA No.616 of 1993.

3. In the result, I hold that the application is without any merit and the same is rejected, but under the circumstances, without any order as to costs.

D. Somnath Singh
(S.SOM)
VICE-CHAIRMAN 6.5.97