

Order dated 30.10.2003

Applicant Nikunja Kishore Parija (who was appointed as a Member of Indian Police Service, on 16.10.1991, and got Selection Grade with effect from 1.11.1989) faced a Vigilance P.S. Case No.40/90 (under Section 13 of Prevention of Corruption Act, 1958) that was initiated against him on 19.6.1990 and he was, consequently, placed under suspension with effect from 28.06.1990. However, he was reinstated (from suspension) during November, 1992. The Selection Committee, which held its meeting on 29.5.1993, found the Applicant unsuitable. The Special Court, on 9.3.1995, took cognizance of the aforesaid Vigilance (Criminal) Case; which is still pending with the Special Judge at Bhubaneswar. The Applicant had appeared before the Criminal Court (in the aforesaid Vigilance Case) on 13.4.1995; when he got himself released on bail. The case of the Applicant was considered in the next meeting of the Screening Committee that was held on 04.07.1995 and the findings of the said Committee (so far it concerns the applicant) have been kept in sealed cover; for the reason of pendency of the aforesaid Criminal Case. The Applicant having faced retirement from service, with effect from 31.1.1996, has filed the present Original Application (No.107/96) under Section 19 of the A.T. Act, 1985, with prayers for the following reliefs:-

- (a) for promotional benefits with effect from 1993;
- (b) for fixation of his pensionary benefits;

(c) for payment of differential amount of salary for the period he was placed under suspension and

(d) for payment of withheld incremental benefits

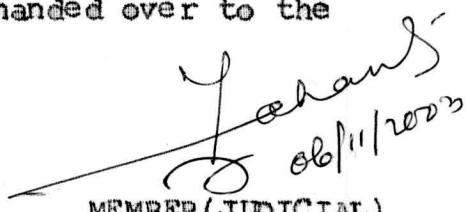
2. We have heard Mr.J.Patnaik, the learned Senior Counsel appearing on behalf of the Applicant; Shri K.C. Mohanty, learned Govt.Advocate representing the State of Orissa and Shri U.B.Mohapatra, learned Addl.Standing Counsel appearing on behalf of the Union of India.

3. In course of hearing; Mr.Mohanty, the learned Govt.Advocate, pointed out that the Applicant is not entitled to any promotional benefit with effect from 1993; because he was considered unsuitable by the Selection Committee, which held its meeting on 29.5.1993. It has been disclosed by the learned Govt.Advocate, further, that the suspension of the Applicant for the period from 28.6.1990 to 12.11.1992 has not yet been regularised due to pendency of Cuttack Vigilance P.S Case No.40 dated 19.6.1990; and that the incremental benefits for the year 1991 and 1992 have not been sanctioned in favour of the Applicant as it has not yet been decided (as to how the period of suspension is to be treated); due to pendency of the Vigilance Case in question. It has also been disclosed by Mr.Mohanty that leave salary (in lieu of unutilized E.L. sanctioned in Home Department's letter No.60409 dated 09.11.1999 had already) been paid to the Applicant and that the D.C.R.G. and commuted value of pension due to be paid to the applicant have not yet been released by the Accountant General (Orissa); because of pendency of Vigilance Case, as aforesaid.

4. The main reliefs, as claimed by the Applicant, depend upon the finality of the Vigilance Case (initiated against him by the Vigilance Police) which is still pending in the Trial Court at Bhubaneswar and, therefore, without entering into the merits of the case; we dispose of this Original Application by granting liberty to the Applicant to workout his remedy in the criminal trial. Liberty is hereby, also, granted to the Applicant to approach this Tribunal for redressal of his grievances; in the event the authorities/Respondents fail to redress his grievance appropriately.

5. Send copies of this order to the Respondents and free copies of this order be handed over to the learned counsel for the parties.


VICE CHAIRMAN


MEMBER (JUDICIAL)

06/11/2003