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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 289 OF 1996
Cuttack this the 26th day of June/2003

Ashok Kumar Rastogi ... Applicant(s)

VERSUS

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

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

S. Mohanty
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Sasmal
(B.N. SASMAL)
VICE-CHAIRMAN

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CUTTACK BENCH: CUTTACK

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CORAM:

THE HON'BLE MR. B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR. M.R. MOHANTY, MEMBER (JUDICIAL)
...

Ashoke Kumar Rastogi, aged about 57 years,
S/o. B.P. Rastogi, at present serving as
General Manager, Ordnance Factory,
Badmal, Bolangir

...

Applicant

By the Advocates

M/s. S.K. Das
S.B. Jena
P.K. Mishra

VERSUS

1. Union of India through its Secretary to
Government of India, Ministry of Defence,
Dept. of Production & Supplies, South Block
New Delhi
2. Director General cum Chairman, Ordnance
Factory Board, 19A, Auchland Road, Calcutta-1
3. General Manager, Ordnance Factory, Kanpur-208009

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Respondents

By the Advocates

Mr. B. Dash, A.S.C.,
Mr. A.K. Bose, S.S.C.

D R D E R

MR. B.N. SOM, VICE-CHAIRMAN: Shri Ashoke Kumar Rastogi
(applicant) has filed this Original Application under Section
19 of the A.T. Act, 1985, challenging the inaction of the
Respondents-Department in paying him charge allowance for the
period he held the post of General Manager in the grade of
Senior General Manager in the scale of Rs. 7300/- Rs. 7600/-.

2. Shorn of details, the facts of the case are that
applicant, while working as Additional General Manager,
Ordnance Factory, Kanpur (under the Ministry of Defence)

was ordered vide Annexure-1 dated 14.11.1992 to hold the charge of the Ordnance Factory, Kanpur and Armapore Estate as General Manager and exercise all the powers of administrative and financial nature vested in that post. Ordnance Factory, Kanpur is headed by an officer of the rank of Senior General Manager. Since no Senior General Manager was posted, Ordnance Factory Board had ordered that Shri Rastogi (applicant) Addl. General Manager would act as Officer in charge/General Manager of Ordnance Factory, Kanpur. Consequently, applicant had held the charge of the post from 12.9.1992 till 21.7.1994. In terms of Rule 94 of Civil Service Regulations (in short C.S.R.), the applicant submitted that, he is entitled to grant of charge allowance. The applicant, accordingly, submitted his claim to the Ordnance Factory Board which was rejected by the said Board on the ground that the applicant was not entitled to charge allowance in terms of Rule-49(i) of the F.R. & S.R. Part-I (Annexure-3). It is the case of the applicant that Rule-49(i) of the F.R. & S.R. Pt. I is not applicable to his claim and that his claim should be settled in terms of Article 94 of the C.S.R. As the Respondents-Department did not accept his line of argument, he has approached this Tribunal for redressal of his grievances.

3. The Respondents-Department have contested the application by filing their counter. They have stated that the applicant having not discharged the duties of Senior General Manager (Rs.7300-7600/-) he was not entitled to

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the benefit of ~~hi~~ charge allowance. They have, further stated that as per the Recruitment Rules, Sr.General Manager is a promotional post and as the applicant had not been promoted to that post he was not entitled to ~~the~~ scale of pay of that post. The Respondents have denied that there was any combination of charges involved in the order issued vide Annexure-1. They have also clarified that the officers working in the Senior Administrative Grade could be appointed both as Addl.General Manager and General Manager and therefore, the applicant's claim is not governed under Article 94 of the C.S.R. Therefore, the Respondents have prayed for dismissal of this O.A.

4. We have heard the learned counsel for the parties and perused the records placed before us.

5. The main issue raised in this application by the applicant is that he is entitled to charge allowance in terms of Article 94 of C.S.R. The Respondents, on the other hand, while rejecting his claim have stated that "the conditions stipulated in Rule-49(i) of F.R. & S.R. Pt.I have not been fulfilled by the applicant". The question therefore, to be answered is whether the claim of the applicant is governed under C.S.R. or under F.R.S.R. In other words, the vital point that needs to be ~~answered~~ is whether pay and allowances and service conditions of the Indian Ordnance Service Officers are regulated by Fundamental Rules, Supplementary Rules or under the provisions of Civil Service Regulations we had, therefore, asked the learned counsel for both the parties to address us in the matter. The learned counsel for the Respondents placed before us an extract of first

Page of Chapter-I of Civil Service Regulations and a copy of letter dated 19.5.2003, addressed to him by the Ordnance Factory Board, Govt. of India, Ministry of Defence. On a perusal of C.S.R. we found that with effect from 1.6.1992, the Regulations relating to salaries, leave and other allowances and foreign service etc. "subject to the provisions of Rules 2 and 3 of the Fundamental Rules" do not apply to Government servants whose pay is debit able to Civil Estimates of India. We have also perused the relevant provisions of Rules- 2 and 3 of F.R. which support the contents of the letter of the Ordnance Factory Board, dated 19.05.2003, addressed to Shri Bose. For the purpose of clarity, we quote Rules 2 and 3 of F.R. as under :

" F.R. 2. The Fundamental Rules apply, subject to provisions of Rule 3 to all Government servants whose pay is debit able to Civil Estimates and to any other class of Government servants to which the President may, by general or special order, declare them to be applicable.

F.R. 3. Unless in any case it be otherwise distinctly provided by or under these rules, these rules do not apply to Government servants whose conditions of service are governed by Army or Marine Regulations".

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6. From the above provisions made under F.R. 2 and F.R. 3 it is clear that FRs are ~~not~~ applicable to the employees of Ordnance Factory Services, they being Govt. servants, whose pay is debitible to Civil Estimates.

7. In view of the above findings that the provisions of C.S.R. have ceased to be applicable to the employees of Ordnance Factory since 1st ~~June~~ 1922 and that they are only governed by the provisions of F.R. S.R. for the purpose of their pay, allowances, leave, travelling allowance etc., the application for grant of charge allowance in terms of Art. 94 of C.S.R. made by the applicant is misconceived and is devoid of merit. We accordingly, dismiss this O.A. N-o costs.

Subir
(M.R. MOHANTY) 26/06/03
MEMBER (JUDICIAL)

Subir
(B.N. SOM)
VICE-CHAIRMAN

Bijy/