


CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

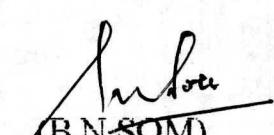
O.A.NO. 214 OF 1998
Cuttack, this the 28 day of October, 2003

Nirmal Kumar Nayak Applicant
Vs.
Union of India and others Respondents

FOR INSTRUCTIONS

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


28/10/03
(M.R.MOHANTY)
MEMBER(JUDICIAL)


(B.N.SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH,CUTTACK

O.A.NO.214 OF 1998
Cuttack, this the 23rd day of October, 2003

CORAM:

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

Nirmal Kumar Nayak, aged about 59 years, son of late Managobinda Nayak, ex-Youth Assistant Grade I, NSS Regional Centre, Government of India, A-99, Sahid Nagar, Bhubaneswar, P.O/PS Bhubaneswar, District Khurda, At present PO/PS/Dist.Angul Applicant

Advocates for the applicant

- M/s T.K.Sen, Abhijit Ghosh
& P.B.Sahoo.

VS.

1. Union of India, represented by Secretary, Ministry of Finance, At Central Secretariat, New Delhi.
2. Secretary to Government of India, Ministry of Home Affairs, Department of Internal Security (Rehabilitation Division), Jaisulmar House, Mansingh Road, New Delhi 110 011.
3. Secretary to Government of India, Department of Human Resource Development, Department of Youth Affairs and Sports, Shastri Bhawan, New Delhi 110 001.... Respondents.

Advocates for Respondents -

Mr.S.Behera, ACGSC.

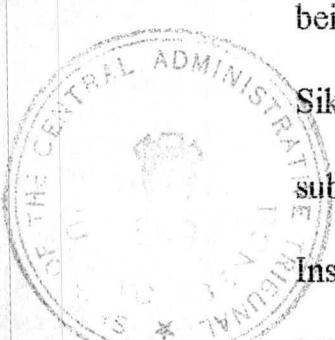
ORDER
SHRI B.N.SOM, VICE-CHAIRMAN

Shri Nirmal Kumar Nayak, in this Original Application, has ventilated his grievance to the effect that although one Dulal Krishna Sikdar was allowed the scale of pay of Rs.550-900/- (pre-revised) from 1.1.1973 by virtue of the Principal Bench's order dated 1.10.1991 in OA No. 692 of 1988 for holding appointment to the post of Zonal Inspector of Schools, Dandakaranya Project, the same benefit was denied to him despite repeated representations to that effect.

2. The case of the applicant is that while he was working in Dandakaranya Project High School, he was promoted as Headmaster of M.E.School on 1.11.1975 in the scale of pay of Rs.380-640/- and thereafter promoted to the post of Zonal Inspector of Schools with effect from 8.8.1981 in the scale of pay of Rs.425-700/-. However, by virtue of the direction of the Hon'ble High Court of Orissa and Principal Bench of this Tribunal, Shri Dulal Krishna Sikdar, after he was absorbed in the Food & Civil Supplies Department of the Central Government with effect from 11.10.1985, was allowed the benefit of the scale of pay of Rs.550-900/- with effect from 1.1.1973, with direction to pay him arrears pay and subsequently, on his absorption with effect from 11.10.1981 in the Food & Civil Supplies Department, he was appointed as Senior Investigator. Although he brought

the judgments of the Hon'ble High Court of Orissa as also the Principal Bench of this Tribunal to the notice of the Respondents, no action has been taken to redress his grievance.

3. The Respondents, by filing counter, have opposed the Original Application and have gone to the extent of stating that the facts and circumstances of the case of Shri Dulal Krishna Sikdar and of the applicant being different, the principle decided by the Principal Bench in respect of Shri Sikdar cannot be made applicable to the case of the applicant. They have also submitted that the proposal for granting higher pay scale to the Zonal Inspector of Schools was considered by them in consultation with the Ministry of Finance (Department of Expenditure) and it was decided that the proposal for revision of pay scale of Zonal Inspector of Schools was not feasible. They have further stated that as the Third Central Pay Commission had recommended pay scale of Rs.425-700/- for the Zonal Inspector of Schools, no revision was called for.



4. On the date the matter was listed for hearing, none was present on behalf of the applicant nor was the applicant present in person. However, Shri S.Bhakra, learned Additional Standing Counsel was present and we heard him.

5. We have gone into the grievance of the applicant very carefully and have perused the order dated 1.10.1991 passed by the Principal Bench in

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O.A.No. 692 of 1988 (Shri Dulal Krishna Sikdar v. Union of India and others). The Principal Bench had found that some Trained Graduate Teachers of Dandakaranya Project had filed writ applications, OJC Nos. 656 and 658 of 1979 in the Hon'ble High Court of Orissa for revising their pay scale from Rs.380-640/- to Rs.550-900/-, which were allowed in September 1984 directing the Opposite Parties to revise the pay scale of the petitioners from Rs.380-640/- to Rs.550-900/-. Accordingly, Dandakaranya Development Authority revised the pay scale of the Trained Graduate Teachers vide their order dated 23.7.1985 with the approval of the Government of India. However, the Government of India and the DNK Project authorities did not revise the pay scale of the Zonal Inspector of Schools in the Project. This created anomaly in the pay scales of Zonal Inspector of Schools and the Headmaster of M.E.Schools. The matter was referred to the Government, but the same was rejected vide their order dated 20.7.1987. Aggrieved by the same, Shri Sikdar had filed the said Original Application before the Principal Bench. The Principal Bench decided the application filed by Shri Sikdar in the light of the judgment of this Bench in TA No. 26 of 1987(*P.P.Katari v. Union of India and others*) and O.A.No. 152 of 1986. The Principal Bench found that this Bench of the Tribunal in *P.P.Katari's case (supra)* had observed that the pay scale of Zonal Inspector of Schools was lesser than that

of the feeder grade, i.e., the Headmaster of M.E.Schools and therefore, the promotion of Headmaster as Zonal Inspectors of Schools would entail monetary loss. They had further observed that since the applicant was promoted as Zonal Inspector of Schools from the post of Sub Inspector of Schools in 1965 itself and the pay scale of Zonal Inspector of Schools became lower than that of the Headmaster by the order passed by the Respondents in 1985 only, the applicant did not even get a chance to refuse the promotion to the higher post with a lower scale of pay. Therefore, they concluded, "not granting the request of the applicant for giving him the pay scale of at least Rs.550-900/- with effect from 1.1.1973 would amount to denial of equal pay for work of higher responsibility and duties". Even before the introduction of the Third Pay Commission scales of pay, the applicant was drawing higher pay than the Headmaster. In the circumstances, they observed that the applicant was entitled to the pay scale of Rs.550-900/-.

6. We are not impressed by the submission of the Respondents that the facts and circumstances of the case of Shri Dular Krishna Sikdar are distinguishable. As has been brought out both by this Bench in OA No.152 of 1986 and by the Principal Bench that upgrading the pay scale of the Headmaster without upgrading the pay scale for Zonal Inspector of Schools created anomaly and that anomaly could not be allowed to continue as that

would tantamount to denial of equal pay for work of higher responsibility and duties. In O.A.No.336 of 1992 (*S.Dhuruvasan and 61 others v. Union of India and another*) decided by Madras Bench of the Tribunal on 1.11.1993, it has been held that the decision rendered by the Tribunal in an earlier case should be applied to the officials similarly placed. In view of this decision and as the applicant in the instant case and Shri Dulal Krishna Sikdar are similarly placed, we hold that the ratio of the judgment of the Principal Bench in OA No. 692 of 1988 in the case of Shri Dulal Krishna Sikdar should have been applied to all the Zonal Inspectors of Schools of Dandakaranya Project with effect from 1.1.1973 and surely to the applicant also.

7. In view of our above discussion, we hold that the applicant is entitled to the relief prayed for and he should be allowed the pay scale of Rs.550-900/- from the date he was promoted as Zonal Inspector of Schools, i.e., from 8.8.1981, following the ratio of the judgment of the Principal Bench in OA No. 692 of 1988 and we order accordingly. The Respondents are directed to grant all consequential benefits to the applicant within a period of 90(ninety) days from the date of receipt of copy of this order.

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8. In the result, the Original Application is allowed. No costs.

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28/10/03
(M.R.MOHANTY)
MEMBER(JUDICIAL)

Janu
(B.N.SOM)
VICE-CHAIRMAN