

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A. NO. 348 of 1999

Cuttack, this the 12th day of February, 2004

Akhaya Kumar Biswal Applicant

Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

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


(B. PANIGRAHI)
VICE-CHAIRMAN


(B.N. SOM)
VICE-CHAIRMAN

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CORAM:

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI JUSTICE B.PANIGRAHI

Sri Akshaya Kumar Biswal, IAS (Retd.),
20, Forest Park, Bhubaneswar 751 009
Dist. Khurda

..... Applicant

Vrs.

1. Union of India, represented by the Secretary, Department of Pension & Pensioners Welfare, Government of India, New Delhi.
2. State of Orissa, represented by the Chief Secretary, Government of Orissa, Bhubaneswar, Dist. Khurda.
3. Principal Secretary to Government of Orissa, Department of General Administration, Bhubaneswar, Dist. Khurda.
4. The Principal Accountant General (A&E), Orissa, Bhubaneswar, District Khurda

..... Respondents.

Advocates for the applicant

- M/s G.B.Jena & S.Mohapatra

Advocates for the Respondents

- Mr. S.B.Jena, ASC
& Mr. K.C. Mohanty, Govt. Advocate

ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

Shri Akshaya Kumar Biswal has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, challenging the action of the Respondents in not fixing his pension/family pension properly in due

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implementation of the recommendation of the Fifth Central Pay Commission in his case as a pre-1986 pensioner.

2. The case of the applicant in a nutshell is that he had retired from service (IAS) on 31.1.1980 after putting in more than nine years of service in I.A.S. and therefore, was entitled to fixation of his pay on notional basis as on 1.1.1986 in the Senior Time Scale (for short, 'STS') and as on 1.1.196 in the Junior Administrative Grade (for short, 'JAG') of that service. However, the Respondents re-fixed his pay on notional basis only in the Senior Time Scale of the service. He has further submitted that he was not supplied with the calculation sheet regarding the revised pension granted to him which had greatly prejudiced him in getting justice. He had also submitted representation in this regard to Respondent No.3 but without success. He has, therefore, approached the Tribunal with a prayer to direct the Respondents to revise the pension/family pension payable to him with effect from 1.1.1996 fixing his pay in the JAG of Rs.12,750-16,500/- instead of STS of Rs.10,500-15,850/- and to pay him the arrears so calculated and his current pension at such enhanced rate.

3. The Respondents have contested the Original Application by filing detailed counters. They have contended that on receipt of the order of Ministry of Personnel, Public Grievances & Pension, Department of Pension and Pensioners' Welfare, dated 10.2.1998 (Annexure 1) and on receipt of an application from the applicant for revision of his pension/family pension on 25.3.1998 mentioning that he was drawing pay of Rs.1780/- per month at the

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time of his retirement in the STS of pay of IAS (i.e., Rs.1200-2000/-), they have notionally revised his pay at Rs.4075/- per month in the STS of pay (Rs.3200-4700/-) with effect from 1.1.1986 and again revised the same with effect from 1.1.1996 in the new pay scale which was introduced from that date (Rs.10,650-15,850/-). Consequently his pension was fixed at Rs.5421/- per month and family pension at Rs.2486/- per month with effect from 1.1.1996. Subsequently, Respondent No.4 revised the pension/family pension of the applicant by fixing his pay notionally at Rs.4325/- per month as on 1.1.1986. They have further submitted that as the minimum of the STS of pay of IAS was fixed to Rs.10,650/- with effect from 1.1.1996 and the full pension amount should in no case be less than 50% of that, the pension of the applicant was rightly fixed at Rs.5590/- which is IN FACT more than 50% of the minimum of the STS of pay. However, the amount of family pension which was fixed at Rs.2634/- per month with effect from 1.1.1996 required revision. Accordingly, family pension of the applicant was revised at the rate of 30% of the minimum of the STS of pay with effect from 1.1.1996. With regard to the plea of the applicant that his pay should have been notionally fixed in the JAG scale of pay introduced in IAS cadre by the Government of India with effect from 1.1.1986, they have pointed out that he was not entitled to the pay scale of JAG as he had retired from service prior to the introduction of such scale of pay in I.A.S. By referring to the case of one

U.P.Guru, an IAS officer of the same cadre, who retired from service on 30.11.1983, they have stated that Respondent No.1, on being approached with a request to grant benefit of JAG pay scale to him under the Rules (vide Annexure R.3/2), had taken a decision that this scale of pay cannot be applied to the case of Shri Guru as the said scale of pay was introduced only with effect from 1.1.1986 by which date Shri Guru had already retired. On the strength of this ruling, the Respondents have submitted that the applicant being a pre-1986 retiree cannot be given the benefit of JAG which was introduced with effect from 1.1.1986.

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

5. The short question involved in this O.A. is whether the applicant is entitled to the benefit of pay scale of JAG introduced in the IAS with effect from 1.1.1986. As has been pointed in the counter by the Respondents and also as submitted by the learned counsel appearing for Respondent Nos.2 and 3, JAG was introduced in IAS for the first time with effect from 1.1.1986, whereas the applicant had retired from service with effect from 31.1.1980. In view of the said facts of the case, we uphold the decision of Respondent No.1 communicated to Respondent No.2, vide Annexure R.3/3 that a pre-1986 retiree cannot be given the benefit of JAG which was introduced with effect from 1.1.1986. In the circumstances, we see no merit in this OA which

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is accordingly dismissed. We also hold that the Respondents have fixed the pension of the applicant correctly following the principles enunciated by Government of India referred to earlier (vide Annexures 1 & 8). No costs.



(B. PANIGRAHI)
VICE-CHAIRMAN



(B.N. SOM)
VICE-CHAIRMAN

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