

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

ORDER NO. 9, DATED 25-5-2000.

O. A. Nos. 33/2000, 125/2000, 126/2000
and O. A. No. 127/2000.

These four cases have been heard separately but as the petitioners are same and have joined together in O. A. No. 33/2000 and on the basis of same facts and have come with same ~~order~~ ^{prayer}, one order will cover these four cases.

At the outset, it has to be mentioned that in Original Application No. 33/2000 there are five applicants. It is submitted by learned counsel for the applicants that he does not press the case of Shri R. K. Ghosh. In view of this, Original Application is dismissed so far as R. K. Ghosh, Petitioner No. 3 in Original Application No. 33/2000 is concerned.

With regard to S/Shri G. C. Das, S. N. Rath and K. C. Gochhayat, Petitioners 1, 2 and 4 in Original Application No. 33/2000 are concerned it is to be noted that Petitioner No. 2 Shri S. N. Rath and Petitioner No. 4 Shri K. C. Gochhayat have filed two separate Original Applications namely Original Application Nos. 125/2000 and 126/2000 with the same prayer. It is not necessary to go into the facts of the case of Shri G. C. Das S. N. Rath and K. C. Gochhayat because it is submitted by learned counsel for the petitioner that during the pendency of this case, they have already received orders of their regular promotion to the rank of S. D. E. and have been posted to different places and they are preparing to go and join their new place of postings within a week. Prayer of the learned counsel for the applicants, with regard to these petitioners, is limited as submitted by him, for granting of the scale of pay and emoluments of the SDE during the period, ~~or~~ their

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reversion and transfer order was stayed by this Tribunal in order dated 19-1-2000 which has been continued till date. It is submitted by learned counsel for the applicant that as these three applicants were continuing as S.D.E. and their reversion order was stayed, they will be entitled to the pay and emoluments of the post of SDGs during the period of currency of the stay order. It is submitted by learned Senior Standing Counsel Mr. A.K. Bose that in the stay order issued on 19.1.2000, this Tribunal has specifically ordered that the stay order will be operative if by the date of issue of the stay order i.e. on 19-1-2000, the first part of Annexure-4 has not already been given effect to. It is submitted by Senior Standing Counsel that he has no instruction as to whether before the issue of the stay order on 19.1.2000, the first part of the order at Annexure-1 in O.A.No.33/2000 and Annexure-3 of the other 2 OAs have been given effect to. This is a factual aspect which can be easily determined on the basis of the official record. In view of this, this prayer of the applicant Nos.1,2 and 4 is disposed of with a direction to the respondents that in case the stay order dated 19.1.2000 had not become infructuous on the date of issue of the same then these three applicants should be entitled to the scale of pay and emoluments of the higher post till today.

J.K.N.

With the above, this prayer of the three applicants mentioned above, is accordingly allowed and the rest of the prayers made in this O.A. are rejected.

As regards the remaining petitioner J.K.Nayak, who has also filed a separate OA No.127/2000, it has been submitted by the learned counsel for

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	<p>that he has personal difficulties and in the order at Annexure-4, in this OA and Annexure-3 in O.A.No.127 of 2000, he has been given adhoc promotion only for a period of 180 days and has been transferred from Dhenkanal to Koraput. It is submitted by learned counsel for the petitioner that as he has been given adhoc promotion there is no certainty that he would be continued in the higher post at Koraput, even if he joins at Koraput after six months. He may be reverted from that higher post and posted at Koraput itself in the lower rank. He has not completed his tenure at Dhenkanal and therefore, he is not interested to go to Koraput on adhoc promotion for a period of 180 days. It is submitted by Shri Bose, learned Senior Standing Counsel that as the promotion given to the applicant No.5 in OA No.33/2000 is an adhoc promotion he is free to refuse the same and it is also submitted by learned Senior Standing Counsel and mentioned by the Respondents in their counter that refusal of adhoc promotion by applicant No.5 will in no way affect the chances of his future promotion on regular basis, to the higher post and the fact that he has refused the adhoc promotion will in no way be taken into consideration while considering the case of the applicant strictly in accordance with rules for his regular promotion. In view of this, learned counsel for the petitioner submits that this applicant would consider forgoing the adhoc promotion and in view of this, he does not want for quashing the Annexure-3. In view of the above, the case of Applicant No.5 is disposed of with a direction that in case he refuses the adhoc promotion this would in no way prejudice his case for the purpose of regular promotion to the higher rank. It is further ordered that in case the petitioner</p>

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Free copy of
the order No-9
of 25-8-00 given
to the both
counselors.

Patel
3/75-

Pratap
3/75
S.O.

Shri J.K. Nayak has any grievance with regard to his regular promotion and he feels that at the time of his regular promotion the fact that he has ~~forgot~~ ^{forgot} his adhoc promotion has been taken into consideration, he is free to approach this Tribunal.

It is also to be mentioned that Respondents will consider the case of Shri J.K. Nayak for granting of salary and emoluments in the higher post in accordance with our directions given in respect of other three applicants.

In the result, these four OAs are disposed of in terms of the observations and directions made above. No costs.

(J. S. DHALI WAL)
MEMBER (JUDICIAL)

KNM/CM.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
25/8/2000