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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 342 AND 344 OF 2000
Cuttack this the 6th day of Feb/04

IN O.A.NO.342/2000

D.B.Biswas ... Applicant(s)

-VERSUS-

Union of India & Ors. Respondent(s)

IN O.A.No.344/2000


L.Sahu ... Applicant(s)

-VERSUS-

Union of India & Ors. Respondent(s)

FOR INSTRUCTIONS

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


(B. PANIGRAHI)
VICE-CHAIRMAN (J)


(B.N. SOM)
VICE-CHAIRMAN (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NOS. 342 AND 344/2000
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CORAM:

THE HON'BLE MR. B.N. SOM, VICE-CHAIRMAN (A)

AND

THE HON'BLR MR. JUSTICE B. PANIGRAHI, VICE-CHAIRMAN (J)

...

IN O.A. NO. 342/2000

Dwigbijoy Biswas 50 years, S/o. late Dhananjoy Biswas at village MV 42, PO-Malkangiri Colony PS-Malkangiri, Dist-Malkangiri - at present working as Sr. Accountant in the Office of the Pay & A/C. Officer, Central Excise & Customs, Bhubaneswar-4

... Petitioner

1. Union of India, Ministry of Home Affairs through its Secretary to Govt. of India, Rehabilitation Division, Maismler House, Mansingh Road, New Delhi
2. Government of India, Ministry of Finance, Department of Expenditure through its Secretary, New Delhi-1
3. The Director General, Indian Meteorological, Department, Lodhi Road, New Delhi-3, AOCR
4. The Principal Chief Controller of Accounts, Central Board of Excise and Customs, AOCR Building (1st Floor)
5. The Pay & Accounts Officer, Central Excise and Customs, Bhubaneswar-4

... Respondents

IN O.A. NO. 344/2000

Lambodar Sahu, 52 years, S/o. late Haribandhu Sahu, Podangi, PS-Hinjilicut, Dist-Ganjam - at present serving as Tax Asst., Central Excise & Customs, Office of the Commissioner of Central Excise, Customs(I), Bhubaneswar

... Applicant

-VERSUS-

B

1. Government of India, Ministry of Home Affairs, through its Secretary, Rehabilitation Division, Jaismler House, Mansingh Road, New Delhi
2. Government of India, Ministry of Finance, Department of Expenditure, through its Secretary, New Delhi
3. Commissioner of Central Excise, Customs, Orissa, Bhubaneswar-1

... Respondents

By the Advocates for the
Applicants in both the OAs

M/s.A.K.Mishra
J.Sengupta
P.R.J.Dash
D.K.Panda
C.Mohanty
G.Sinha

By the Advocates for the
Respondents in both the OAs

Mr.A.K.Bose, SSC
Mr.U.B.Mohapatra, ASC

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O R D E R

MR.B.PANIGRAHI, VICE-CHAIRMAN(J): After an extensive hearing from the learned counsel for the applicant and learned counsel appearing on behalf of the Respondents, we dispose of these two O.As through this common order, the facts and points to be decided being one and the same. For the sake of convenience, the facts of O.A.No. 342/2000 are being referred to.

2. It reveals from the record that the applicant was appointed as a Primary Teacher in the scale of Rs.85-140/- with effect from 30.4.1971. It is further appeared that the applicant had enjoyed the revision of scale of pay with effect from 1.1.1973 and the pay at Rs.85-140/- was revised to Rs.260-400/-. In course of his employment, it seems that he has increased ~~in~~ his qualification and obtained a Graduation Degree from Berhampur University, sometimes in 1973. After he acquired such higher qualification


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he was asked to join at Kalimela High School pursuant to which he had ^{been} performing the function as Assistant Teacher with effect from 11.9.1980. He continued in Kalimela from 11.9.1980 to 16.7.1982 and thereafter was transferred to MV 9 M.E.School on 17.7.1982.

Subsequently it transpires that on the recommendation of the review D.P.C. the applicant along with others was promoted ^{un} to the post of Trained Graduate Teacher in the scale of Rs.260-430/- and he joined as such at N.V. 9 M.E.School. While continuing in the said post there was revision of pay with effect from 1.1.1986 and therefore, the applicant's scale of pay was fitted at Rs.1400-2600/-. On 31.1.1988, Dandaka Development Project came to a close and the applicant was therefore, relieved of his duties on 31.1.1988. After the project was closed the applicant was accommodated as U.D.C. elsewhere.

2. The applicant's sole grievance is that although he was discharging the function as an un-Trained Graduate Teacher with effect from 11.9.1980, ~~but~~ he was not given salary as admissible to an un-trained graduate teacher.

3. The Respondents in their reply have stated that the applicant along with others was promoted to the post of un-trained graduate teacher with effect from 11.1.1984 and as such he has been given the revision of pay in the enhanced scale with effect from 1.1.1986.

It is found that there was great controversy with regard to admissibility of scale of pay of the Teachers, and Asst.Teachers, who were asked to perform as un-trained

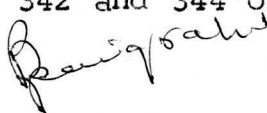


graduate teachers. There was divergent opinion between the Benches of the Central Administrative Tribunals and finally it was resolved by the Hon'ble Supreme Court in the case Pratima Pal vs. Union of India & Ors. in Civil Appeal No.7268/96 vide judgment dated 13.8.1997. On Perusal of the judgment of the Hon'ble Supreme Court, it is found that the Teachers who were appointed as untrained Graduate Teachers shall not however be allowed to get the benefit of the scale of pay of the untrained graduate teachers. But, however, they will be paid the salary of middle school teachers so long they worked. In this case there is no doubt that the applicant has been paid salary in the scale of Rs.425-640/- for the period he rendered service as untrained graduate teacher. Although the applicant has claimed salary from 11.9.1980 to 11.1.1984, there is nothing on record to show that he was officially asked to perform the duties of untrained graduate teacher and to this extent Exhibit-2 is not sufficient to grant such scale of pay.

4. There is no doubt that the applicant has received the salary as untrained graduate teacher with effect from 11.1.1984 and thereafter. Since no document has been filed to establish that he was ever asked to ~~perform~~ perform the duties of untrained graduate teacher from 11.9.1980 till 11.1.1984, we however, refuse the applicant to get such salary for the aforesaid period. In the same analogy also, the applicant in O.A.344/2000 is not entitled to get the salary of untrained graduate

teacher for the period from 1.1.1973 to 27.1.1994
as claimed by him.

With the above direction, the the O.A.
Nos. 342 and 344 of 2000 are disposed of. No costs.


(B. PANIGRAHI)
VICE-CHAIRMAN(A)


(B.N. SOM)
VICE-CHAIRMAN(A)

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