

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order No.2 dated 18.9.2000/2.30P.M.

Applicant, Gopinath Das earlier filed Original Application No.474/97 before this Bench. This O.A. was disposed of on 16.12.1997 setting aside the order of reversion on a technical ground that the Department had not issued show cause to the applicant and directing the Departmental authorities to issue show cause notice on the applicant and deal with the matter afresh. Against the later portion of this order the applicant preferred O.J.C. 392/98 before the High Court of Orissa, which appears to be pending.

In this Original Application the applicant prays for quashing Annexures-8 and 9 passed by the Department in response to his representations for revision of pay scales in the Grade of Technical Assistant 'A'. Through these Annexures the Department turned down his request in view of order No.3 dated 12.1.1998 passed by the High Court in O.J.C. 392/98 stating that it would not be possible at this stage to have his pay fixed in the revised pay scale of Technical Assistant 'A'.

Registry gave a noting as to non-maintainability of this Original Application in view of pendency of the O.J.C.

During hearing on admission when we expressed our tentative view as to non-maintainability of this application at this stage, Shri B.N.Rath, the learned counsel for the applicant replied that in case this Bench agrees with the noting of the Registry, this Bench should assign reason. As his request for revision of pay scale has been turned down by the Department vide Annexures-8 and 9, because of Order No.3 dated 12.1.1998 passed in O.J.C.392/98, the applicant should have annexed a copy of that order, to convince us that that order has nothing to do with his request for revision of pay in the Grade of Technical Assistant 'A'. Unfortunately, a copy of this order has not been annexed. In Para 4(X) of this Application it has been averred that in O.J.C. 392/98, an interim order was passed that through the proceeding, as directed by this Bench may continue, no final orders shall be passed in the matter. Again in his representation dated

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free copy of
the order
at 18.9.2000
to the both
counsel.

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17.12.1998 (Annexure-7), there is averment that vide interim order dated 12.1.1998 a direction was given to the Department not to pass any final order without the leave of the Court. Thus the averment in the pleading as also the averment in this Annexure-7 would necessarily imply that the Department is not at liberty to pass any order in the proceedings without the leave of the High Court. It cannot be said that revision of pay scale asked by the applicant is in no way connected with the show cause notice said to have been issued after the order of this Bench, because in case of ultimate reversion, which may need determination whether the revision of the pay scale as requested by the applicant at this stage would be justified.

Since the matter is subjudice before the High Court, and in view of reasons mentioned above, this Application, at this stage is not maintainable before this Bench and is accordingly not admitted and rejected.

Venkateswara
VICE-CHAIRMAN
18.9.2000

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MEMBER (JUDICIAL)