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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.589 OF 2000

Cuttack this the 14th day of January 2003

R.M. Panda

...

Applicant(s)

-VERSUS-

Union of India & Others ...

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *NO*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *NO*

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

V
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 589 OF 2000
Cuttack this the 4th day of January 2003

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

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Radhamohan Panda aged about 52 years,
S/o. Late Bhagaban Panda, Trinath Temple
Street, PO/Dist-Koraput

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Applicant

By the Advocates

M/s. Ganeswar Rath
S.N. Mishra
T.K. Praharaj

-VERSUS-

1. Union of India represented through its Secretary, Ministry of Information & Broad Casting, New Delhi
2. Director, General, All India Radio, New Delhi
3. The Chief Controller (Pension) Central Pension Accounting Officer, Trikoot-II Complex, Bhikaji Camaplace, New Delhi-110066
4. Pay & Accounts Officer, Ministry of I & B - A.I.R., Mumbai-400020

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Respondents

By the Advocates

Mr. A.K. Bose,
Sr. Standing Counsel
(Central)

O R D E R

MR. B.N. SOM, VICE-CHAIRMAN : This Original Application, under Section 19 of the Administrative Tribunals Act, 1985, has been filed by Shri Radhamohan Panda, with the following prayers.

"(a) To direct the respondent to correct the payment order and to disburse the pension with interest from the date of retirement till the date of disbursement in favour of the applicant forthwith".

2. The applicant ^{while} ~~working~~ as an Administrative Officer in the scale of pay of Rs.2000-3200/- (Pre.R.P.) from All India Radio, Gulbarga, ~~He~~ was compulsorily

retired from service w.e.f. 20.6.1995. The applicant has stated that he was promoted to the Grade of Administrative Officer w.e.f. 27.2.1992, with the approval of Union Public Service Commission and his basic pay in the higher grade was fixed at Rs.2060/- w.e.f. 1.2.1993 and ^{h-} earned two increments at the stage of Rs.2110/- on 1.2.1994 and Rs.2180/- on 1.2.1995. However, while calculating pension of the applicant, his pay was wrongly calculated as Rs.2000/- from 20.8.1994, Rs.2060/- from 1.9.1994 and Rs.2060/- till 19.6.1995, i.e., till his retirement. He had represented to the Chief Controller(Pension) on 30.7.1999 against the said wrong calculation of his pay, but without any effect. He, therefore, being aggrieved by the inaction on the part of the Chief Controller(Pension) and also of the Respondents, has approached this Tribunal, with the prayer referred to above.

3. The Respondents have, in their counter, averred that the emoluments of the applicant for the last 10 months before his retirement was correctly drawn by the concerned pension payment authority, and therefore, there was no need for any correction. They have further stated, it is true that the pay of the applicant was fixed at Rs.2060/- by the A.I.R., Gulberga on 1.2.1993, but that was done erroneously. This mistake was pointed out by the P.A.O., AIR, Mumbai at the time of final checking of service records for payment of pension to the applicant, stating that as the applicant had not actually assumed charge of the higher grade he was not entitled for fixation benefit under FR 22(1) (a) (i). ~~It is~~

4. I have heard Shri S.N. Mishra, the learned

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counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the Respondents and also perused the pleadings of the O.A. as well as the materials available on record. The short point that arises for consideration is whether the fixation of pay of the applicant should have been done under F.R.22(1)(a) (i) or F.R. 26. The facts of the matter are that the applicant was given promotion to the grade of Administrative Officer w.e.f. 27.2.1992. However, verysoon thereafter on 30.3.1992, he was placed under suspension, which continued upto 5.8.1993. The said suspension order was revoked on 6.8.1993 and the applicant resumed the charge of Administrative Officer, Gulberga w.e.f. 1.9.1993. His pay fixed in the higher grade at Rs.2000/- has not been disputed by the applicant either in his written application or during oral pleadings. As the official had remained on suspension from 30.3.1992 to 5.8.1993, this period could not have been counted towards his service for earning the next increment. As he resumed the appointment of Administrative Officer from 1.9.1993, his date of next increment was correctly reckoned as 1.9.1994, by taking into account the period of his joining in the higher grade from 27.2.1992 to 29.3.1992 and the period from 1.9.1993 to 30.8.1994 (the period of 10 months).

5. In view of the above, I see no error in fixation of his pay including determining the date of increments in the higher grade and therefore, there

is no mistake in calculating the average emoluments of the last 10 months for determining the pension payable to the applicant. Accordingly, this O.A., being devoid of any merit, is dismissed. No costs.

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

By/

*M(J) is authorised to present
the judgment.*

Sub

871/03

pronounced in open Court.

*Sub
14.01.2003
Member (S)*