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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 595 OF 2000.
Cuttack, this the 19th day of March, 2002.

HEMANT KUMAR PANDA.

APPLICANT.

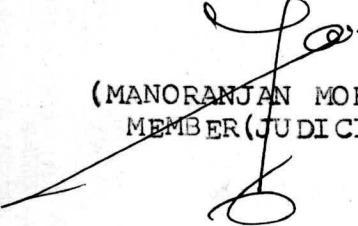
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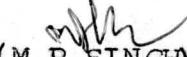
UNION OF INDIA & ORS.

RESPONDENTS.

FOR INSTRUCTIONS

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


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)


(M. P. SINGH)
MEMBER (ADMINISTRATIVE)

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V
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 595 OF 2000.
Cuttack, this the 19th day of March, 2002.

C O R A M:-

THE HONOURABLE MR. M. P. SINGH, MEMBER (ADMINISTRATIVE).
A N D
THE HONOURABLE MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL).

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SHRI HEMANT KUMAR PANDA, IAS (Retd.),
Deulsaхи, Cuttack- 753 008.

.... Applicant.

By legal practitioner: M/s. D. R. Ray,
N. Sarkar,
A. N. Pattnaik,
A. N. Das,
R. K. Mohapatra,
Ms. I. Shabiya,
Advocates.

: VERSUS :

1. Union of India represented by Department of Personnel, North Block, New Delhi-1.
2. State of Orissa represented through its Secretary to Govt. of Orissa, Department of General Administration, Orissa, Secretariat, Bhubaneswar, Dist. Khurda.
3. Additional Secretary, Department of General Administration, Orissa Secretariat, Bhubaneswar, District-Khurda.
4. Accountant General, Office of Accountant General, Orissa, Bhubaneswar, Dist. Khurda.

.... Respondents.

By legal practitioner: Mr. A. K. Bose, Senior Standing Counsel
(For Res. Nos. 1&4)

: Mr. K. C. Mohanty, Govt. Advocate,
(For Res. Nos. 2&3)

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ORDER (ORAL)

MR. M. P. SINGH, MEMBER (ADMINISTRATIVE) :

The Applicant by filing this Original Application has prayed the following reliefs:

- *(i) quash/set-aside the impugned order as at Annexure-2, concurrently holding the same as illegal, arbitrary, unreasonable, discriminatory and violative of the mandates of Article 14 of the Constitution of India;
- (ii) direct the Respondents to notify the Applicant to have operated and worked in IAS, Junior Administrative Grade (Functional and Non-functional pay scale, Rs. 3950-5000/-) w.e.f. January, 1985 and Grade (Pay scale Rs. 4800-150-5700/-) IAS Selection w.e.f. January, 1988;
- (iii) direct the Respondents to release all consequential benefits/reliefs forthwith;
- (iv) pass such other order(s)/direction(s) as may be deemed fit and proper in the bonafide interest of justice*.

2. Short of unnecessary details, it would suffice to say that the Applicant was an Officer of State Civil Service, was promoted and appointed to I.A.S. w.e.f. 23-09-1985 under the IAS (Appointment by promotion) Regulation, 1955. Prior to his appointment to IAS, the Applicant was allowed to officiate against a cadre post of IAS by the State Government in anticipation of approval of the Govt. of India and Union Public Service Commission. The Government of India vide their letter dated 30-09-1985 (Annexure-R-2/1) did not approve such cadre officiation for the reason that cadre officers were really available for manning the relevant cadre post during the relevant period under regulation-9 of the IAS (Cadre) Rules. The year of allotment of a promotee

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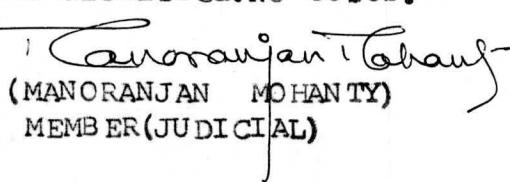
IAS Officer is determined in accordance with the provisions of Rule 3(3) (b) of the IAS (Regulation of seniority) Rules, 1954 which provides that the year of allotment of an Officer appointed to the IAS by promotion shall be the same as the year of allotment of the junior most direct recruit I.A.S. Officer, who started officiating in senior duty post from a date earlier than the date of commencement of such officiation of the promoted officers against the I.A.S. cadre post. In this case, the crucial date for determination of seniority of the Applicant was 23-09-1985 i.e. the date of his appointment to the Indian Administrative Service. Shri Rangalal Jamuda, IAS (RR-81) was the junior most direct recruit officer who started officiating in Senior scale of IAS w.e.f. 24-7-1985. Therefore, in accordance with the provisions of rule 3(3) (b) of the IAS (Regulation of Seniority) Rules, 1954, the Applicant alongwith Sri Babulal Agarwal, Sri J.K. Das, Sri U.C. Jena and other State Civil Service Officers, who were promoted and appointed to IAS from the same list are assigned their year of allotment as 1981 and they were assigned their seniority in IAS below Sri Rangalal Jamuda, IAS (RR-81). As regards, the contention of the Applicant that he was continuing as Joint Secretary in the OAS(S) cadre and on being promoted to the IAS, has been made Deputy Secretary, it is submitted by the Respondents that before the appointment to IAS, the Applicant was guided by the rules framed by the State Govt. and on promotion to IAS, he has to be guided under the rules framed by the Government of India for IAS Officers. As per the IAS (Pay) Rules, 1954, a promotee officer, on promotion to I.A.S. will be

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appointed initially in senior time scale of pay i.e. the post equivalent to the post of Deputy Secretary to Govt. Accordingly, the Applicant on being appointed to I.A.S. has been posted as Deputy Secretary to Government.

3. The IAS (Pay) Rules, provide that the I.A.S. Officers would be ineligible for appointment to Junior Administrative Grade on completion of 9 (nine) years of service calculated from their year of allotment. Government of India has issued further orders on 16-03-1993 in which it has been laid down that all the IAS Officers would be eligible for appointment to the Junior Admn. Grade from 1st January of the year in which they complete 9 years of service. Since the Applicant was assigned 1981 as his year of allotment, he would have completed nine years of service in the year 1990 by which time, he had already retired from service on superannuation. The Applicant has retired on superannuation in the year 1988. Since the Applicant did not complete nine years of service in the I.A.S., he was not eligible nor entitled for the grant of Junior i.e. in the year 1988, Admn. Grade. Before his retirement/as he did not complete nine years of service in the IAS, he was rightly not granted the benefits as has been claimed in this Original Application.

4. In the result, therefore, the Original Application is dismissed. No costs.


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)


(M. P. SINGH)
MEMBER (ADMINISTRATIVE)

KNM/C M.