

13

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.474 OF 2001
Cuttack, this the 12th day of Sept., 2003

Sudarsan Sethi Applicant(s)
Vrs.
Union of India & Others 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 ? *yes*

M. R. Mohanty
12/09/03
(M. R. MOHANTY)
MEMBER (JUDICIAL)

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

14

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.474 OF 2001

Cuttack, this the 12th day of Sept, 2003

CORAM:

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

&

HON'BLE SHRI M.R. MOHNTY, MEMBER (J)

Dr. Sudarsan Sethi MVSC (Poultry Science), aged about 36 years S/o. Sri Basudev Sethi, Via/Po- Kumbharapara, Dist:Naygarh, Presently posted as Poultry Breeding farm Supervisor (being a veterinary Doctor/Officcr) At-Central Poultry Breeding Farm, Nayapali Bhubaneswar, Govt. of India, At-Bhubaneswar, Dist-Khurda.

.....**Applicant(s)**

By the Advocate(s)

.....**Mr. A.K. Mishra**

Vrs.

1. Union of India represented through its Secretary Animal Husbandry & Veterinary Science Ministry of Agriculture Govt. of India, New Delhi-1
2. Director, (Animal Husbandry & Veterinary), Ministry of Agriculture, Department of Animal Husbandry, Krishi Bhawan, Rajendra Prasad Road, New Delhi.1
3. Director, Central Poultry Breeding Farm Govt. of India at Nayapalli, Bhubaneswar, Dist-Khurda.

.....**Respondent(s)**

By the Advocate(s) -

....**Mr. A.K. Bose.**

O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN:

The applicant Shri Sudarshan Sethi is posted as Poultry Breeding Farm Supervisor at Central Poultry Breeding Farm, Nayapali, Bhubaneswar. In this application he has challenged the

order dated 13.09.2001 (Annexure-5) and the order dt. 28.09.2001 (Annexure-6) passed by the Respondent No.3 regarding withdrawal of benefit of Non-Practicing Allowance (in short NPA) to him which he was in receipt since he joined the Department on 04.04.1991.

2. The grievance of the applicant is that after obtaining master's degree in Veterinary Science with specialisation in Poultry Science he was appointed to the post of Farm Supervisor in the office of the Director Central Poultry Breading Farm (in short CPBF), Bhubaneswar, in the pay scale of Rs.16,00/- - 2600/- with NPA of Rs.600/-. While he was enjoying the benefits of non practicing allowance which was enhanced from time to time, the Respondents by issuing their order dt.13.09.2001 (Annexure-5) directed Respondent No.3 to stop payment of NPA to officers including him who are not holding the post of Veterinary Officers in the pay scale of Rs.2000-3500 (pre-revised) and above. In pursuant of this order Respondent No.3 served on him a notice dt.28.09.2001 (Annexure-6) stating that the payment of NPA to him is hereby ceased with immediate effect and that the excess amount paid will be recovered from him in suitable installments. The applicant has assailed the said order of the Respondents being violative of the provisions of Article 14 & 16 of the Constitution. Being aggrieved he has approached this Tribunal for relief.

q/

3. The Respondents by filing a counter have contested this application. They have submitted that non-practicing allowance was granted to the applicant erroneously and by issuing order at Annexure -5 the Respondents have only rectified an unintentional mistakes. They have submitted that under the terms and conditions of service the Farm Supervisors are not entitled to get NPA nor the post of Farm Supervisor is classified as Veterinary Officer.

4. We have also heard Mr. A.K. Mishra, Ld. Counsel for the applicant and Mr. A.K. Bose, Ld. Sr. Standing Counsel for the Respondents.

5. The issues to be answered in this application are whether the post of Farm Supervisor comes under the classification of Veterinary Officer and whether that post holder is entitled to get NPA as a part of his pay & allowances. These very issues we have already answered while disposing of the case of Indira Nayak in O.A.No.473/01 by our order of 3rd March 2003. The ratio of that decision will apply in this case also.

6. While disposing of that O.A we had held that the Farm Supervisor post does not fall in the category of Veterinary Officer, that on the recommendation of the 5th Central Pay Commission, the post of Veterinary Officer has been upgraded to Group 'A' whereas the Farm Supervisor post has been classified Group 'C' category.

Regarding payment of NPA, relying on the decision of the

Mumbai Bench in O.A. No.81/95 we have held that NPA is not payable to Farm Supervisors in the Respondent's organisation. Accordingly, we dispose of this application holding that the Farm Supervisor post does not come within the classification of Veterinary Officer and therefore is not entitled to get NPA. However, as we have held in the earlier case in O.A. No.473/01, the Respondent shall not make any recovery of the amount of NPA already paid to the applicant to avoid hardship to him. No costs.


12/09/03

(M.R. MOHANTY)
MEMBER(JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar