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O.A.No.286 OF 2003.

ORDER DATED 25.02.2005.

Sri Sudarsan Nayak, the Applicant, was taken to the Indian Administrative Service on 10-12-1999 (and was assigned 1994 as the year of allotment) by taking into account his past services in the State Government of Orissa as Legal Assistant (re-designated as Assistant Law Officer) with effect from 01-12-1981 (i.e. the date from which the said post was declared as a specially gazetted one). Being aggrieved by the inaction of the Respondents in not holding the Post of Legal Assistant to be equivalent to that of 'Deputy Collector' and in not assigning him a prior year of allotment, the Applicant preferred an appeal to the Respondent No.1 under Annexure-5 dated 21-07-2000. When no response was made on his said appeal, the Applicant has filed this Original Application, on 16.04.2003, under section 19 of the Administrative Tribunals Act, 1985 with the following prayers:-

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“(a) Issue appropriate direction/direction(s) or order(s) directing the Respondent No.1 to take into consideration the entire period of continuous service rendered by the petitioner from 28.06.1978 for the purpose of giving weightage as required under rule 3(3)(iii) of the I.A.S. (Regulation of Seniority) Rules, 1987 and accordingly refix his allotment year;

AND

(b) Issue appropriate direction or order directing the Respondent No.1 to give 7 years weightage to the applicant on his appointment to IAS by selection and accordingly assign his allotment year as 1992 on relaxation of the provisions under Rule-3 of the AIS (Conditions of Services, Residuary Matters) Rules, 1960;

AND

© Issue appropriate order and direction to the Respondent No.1 to exercise the power under Rule -3 stated above and relax the provisions of Rule – 3 (3)(iii) of the I.A.S. (Regulation of Seniority) Rules, 1987 so as to give weightage of 7 years for completion of 20 years six months of service by the Applicant and accordingly assign his allotment year as 1992 instead of 1994”.

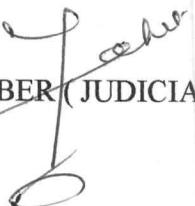
(2) From the records, it is clearly evident that the said appeal of the Applicant is still pending consideration before the Respondent No.1.

(3) When the aforesaid appeal of the Applicant is still pending before the appropriate/competent Authorities, any direction at this stage, on the merits of the matter, would definitely be construed as if interfering with the discretion of the said competent authorities and,

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therefore, without expressing any opinion on the merits of the matter, this Original Application is hereby disposed of with a direction to the Respondent No.1 to consider and dispose of the Appeal (under Annexure- 5 dated 21.07.2000) of the Applicant. It is , however, made clear that in case the Applicant expresses his desire to take any additional ground to his appeal or desires to be heard in person, we are sure, the Respondent No.1 would consider the same for the ends of justice.


VICE-CHAIRMAN


MEMBER (JUDICIAL)