

~~CUTTACK~~
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 20 of 2004
Cuttack, this the 27th day of Jan' 2005

Dr.Jugal Kishore Satapathy Applicant

-VERSUS-

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*

J.K. Kaushik
(J.K. KAUSHIK)
JUDICIAL MEMBER

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

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 20 of 2004
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CORAM:

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

HON'BLE SHRI J.K.KAUSHIK, JUDICIAL MEMBER

Dr.Jugal Kishore Satapathy, aged about 59 years s/o late
Trilochan Satapathy, Jagannathpur Sasan, PS Jagannathprasad
Dist.Ganjam, at present A-7- ... Phase II, Krishna Garden
complex, Barabari, Bhubaneswar-30.

..... Applicant

Advocates for the applicant

..... M/d. A.K.Mishra,
J.Sengupta,
D.K.Panda,
P.R.J.Dash &
G.Sinha.

Versus-

1. Union of India represented through its Secretary to Government of India, Ministry of Personnel, Department of Personnel & Training, PG and Pension, New-Delhi.
2. Union Public Service Commission through its Secretary, Dholpur House, New-Delhi.
3. Government Of Orissa through Special Secretary to Government, G.A.Department, Bhubaneswar.
4. Sri Biswambar Mishra, I.A.S., Addl.Secretary to Govt. of Orissa, Department of Steel & Mines, Bhubaneswar.
5. Sri Ratindranath Padihi, I.A.S.(Rtd.) ex Additional Secretary to Government, Works Department at present residing at Or.No.15-B, 2nd Line, Nwapally P.S., Bhubaneswar, Dist. Khurda.

..... Respondents

Advocates for the Respondents

..... Mr.U.B.Mohapatra
(SSC)
Mr.T.Dash

O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN: Dr.Jugal Kishore Satapathy

has filed this O.A. seeking the following reliefs:

" 1. Under the circumstances, it is humbly prayed that the Hon'ble Court may be pleased to direct the Opp. parties to consider the case of the petitioner for promotion to I.A.S. Cadre retrospectively on the basis of revised seniority w.e.f. 1994-95 and further also direct the Opp. parties to consider the case of the petitioner in each year subsequent thereof i.e. for the years 1995-96 1996-97 and 1997-98 till the petitioner attained the age of 54 years.

2. And direct even to consider the case of the petitioner when the OPs 4 and 5 were promoted i.e., w.e.f. 7.8.97 and 2.12.98.

3. And further direct that the petitioner is entitled to all service benefits and financial benefits retrospectively.

4. And to allow the Original Application."

2. In a nutshell the case of the applicant is that Res.No.3 after having been given ante-dated promotion to Orissa Administrative Service, Gr-1 (OAS in short) and to the rank of OAS (Sr. Grade in Supertime Scale), all from retrospective effect, and thereafter re-fixing his seniority in the OAS above one sri. Biswambar Mishra and below Sri Loknath Mishra; and that as Sri B.Mishra on the basis of the latter's seniority in OAS having been promoted to Indian Administrative Service, the case of the applicant also should be reviewed to meet the ends of justice. In this regard, he had submitted representation to the Special Secretary, Government of Orissa vide his letter dtd. 10.7.03 followed by a representation made to the Secretary, Union Public Service Commission, Dholapur House, New Delhi vide his letter dtd. 15.8.03, copy to Joint Secretary, to Government of India, Ministry of Personnel P.G.

and Pension, New Delhi but without any effect. In the circumstances he has approached the Tribunal seeking direction as stated above.

3. The Res. No. 5² by filing a detailed counter has stated that selection of State Administrative Service officers for promotion to the Indian Administrative Service is governed by the IAS (appointment by promotion) Regulation 1955 and the role of the Respondents is limited to convening the meeting of this Selection Committee where the Chairman/Member of Union Public Service Commission presides. However, the initiative to convene the selection committee meeting rests with the concerned State Government and also the Ministry of Personnel, Government of India. They have also submitted that preparation, revision and maintenance of seniority list of state cadre officers being a subject matter dealt with exclusively by the State Government, they have got no protective role to play in the matter and therefore no relief can be sought from them.

4. The Res. No. 3, the State Government of Orissa, by filing a detailed counter have disclosed that they have fully complied with the direction of the High Court. They have further submitted that as the Hon'ble High Court did not give any direction to them to consider the case of the applicant to the Indian Administrative Service which is a separate cadre, they have not taken any action in that regard. They have also disclosed that the petitioner having already retired from the Government Service and having crossed the permissible age of 54 years for consideration of promotion

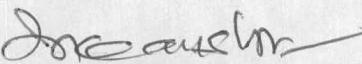
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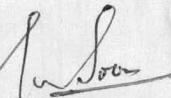
to IAS, the application is devoid of merit.

5. We have heard the Lt.Counsel for both the parties and have perused the records placed before us.

6. The only prayer made by the applicant in this O.A. is that the State Government having refixed his seniority and having given him the consequential service benefits including the arrears of pay and allowances, they are also obliged to carry out review of the select list for promotion to IAS, when Shri Biswambar Mishra, an officer, junior to the applicant was considered/promoted to IAS, notwithstanding the fact that he had retired from service. If in any review meeting his case is recommended for inclusion in the select list, his pay has to be notionally fixed which will entitle him to higher pensionary benefit.

7. Having regard to the submissions made by the Lt.Counsel for the applicant, we disposed of this O.A. with a direction to the Respondents to consider the case of the applicant in terms of the IAS (appointment by Promotion & Regulation) Rules, and the law laid down in this regard. With the above direction this O.A. is disposed of. No costs.


(J.K. KAUSHIK)
JUDICIAL MEMBER


(B.N. SOM)
VICE-CHAIRMAN

SAN/