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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 620 OF 2004**  
**CUTTACK, THIS THE ~~20th~~ DAY OF August, 2008**


Smt. Soudamini Mohapatra..... Applicant


Vs

Union of India & Others ..... Respondents

**FOR INSTRUCTIONS**

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

  
(K.THANKAPPAN)  
MEMBER (JUDL.)

  
(C.R.MOHAPATRA)  
MEMBER (ADMN.)

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CORAM :

HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER(J)  
HON'BLE MR. C.R.MOHAPATRA, MEMBER(A)  
.....

Smt. Soudamini Mohapatra, aged about 39 years, W/o. Sri  
Sashibhusan Mohapatra, At/P.O- Tarot Sasan, Via. Asureswar, P.O.  
Salipur, Dist. Cuttack.

.....Applicant

Advocate(s) for the Applicant- M/s. D.N.Pattnaik, S.K.Mohapatra.

**VERSUS**

1. Union Govt. of India represented through its Secretary, Labour, Shrama Sakti Bhawan, Ratimarg, New Delhi.
2. The Welfare and Cess Commissioner, 33 Ashok Nagar, Bhjubaneswar-9.
3. The Surgical Specialist, Central Hospital, Joda, At/PO. Baneikala, Joda, Dist. Keonjhar.
4. Smt. Nalini Jena, Staff Nurse, Static-cum-Mobile Unit, Govt. of India, Ministry of Labour, Welfare Organisation, At/PO Kamakshya Nagar, Dist. Dhenkanal.

..... Respondents

Advocates for the Respondents – Mr. P.R.J.Dash, (ASC).

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## ORDER

HON'BLE MR.C.R.MOHAPATRA, MEMBER(A)

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, Staff Nurse, working at Central Hospital, Joda under the administrative control of Welfare and Cess Commissioner, Bhubaneswar, has agitated against the disparity in the grant of ACP benefits vis-a-vis Respondent No.4 and has prayed for the following relief:

"8(a) To direct the Respondent No.2 for stepping up the applicant scale of pay at par with her counter part Respondent No.4.

(b) To direct the Respondent No.2 to release all pending arrear dues (from the date of stepping up at par with Respondent No.4) of the applicant within a stipulated period with @ 12% interest."

2. In accordance with the ACP Scheme, the benefits of the Scheme were conferred on the applicant w.e.f. 30.12.1999, i.e. when she was given the pay scale of 5500-175-9000/- as against the existing scale of pay of Rs. 5000-150-8000/-. As per extant instruction, she was asked to exercise her option within one month vide Annexure-A/1 regarding pay fixation in the new scale of pay under FR22(1)(a)(1). Accordingly, she submitted her option vide Annexure-A/2 as under:

" I exercise to the option with reference to Letter No. 18/55/99 -1 dt. 27/29.11.99 of W.C.C. Bhubaneswar under ACP Scheme. I am to state that my pay scale may kindly be fixed from the date of my increment or whichever will be beneficial for me."

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3. According to the applicant, sometime during 2001, she came to know that her pay in the new scale of pay has not been properly fixed in as much as she was getting Rs. 6375/- in the new scale of pay whereas the Respondent No.4, her counterpart in another unit, was getting Rs. 6550/- in the new scale of pay and there was a difference of Rs. 175/-, i.e. one increment less than Respondent No.4. Both of them having joined the same post during the same month and in the same organization, the applicant realized that there should not have been any difference in their pay in a new scale of pay. Accordingly, she made a representation to the concerned authorities on 18.06.2001 and subsequently on 3.10.2001 for removal of this anomaly. The Respondent No.2 vide Annexure-A/6 informed the applicant that "the pay of both Smt. Saudamini Mohapatra and Smt. Nalini Jena have been fixed as per the option exercised by the concerned incumbents under F.R.22(1)(a)(1) during December, 1999. The request of Smt. Saudamini Mohapatra can not be accepted at this belated stage". Aggrieved by this rejection letter of Respondent No.2, the applicant has approached this Tribunal for redressal of her grievances.

4. Respondents have opposed the prayer of the applicant by filing counter. The main contention in the counter is that the applicant exercised her option vide Annexure-R/4 to say that "pay to be fixed under A.C.P. Scheme under F.R.22(1)(a)(1) from the date of my increment or whichever will be beneficial on my part". Whereas Respondent No.4 has stated that "I agree to receive the next higher pay of scale fixed by A.C.P. Scheme". The pay of the applicant was fixed at Rs. 6375/- w.e.f. 1.12.2000 with next date of increment as

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1.12.2001 and the pay of Respondent No.4 was fixed at 6375/- w.e.f. 13.12.1999 with date of next increment as 1.12.2000. The pay of Smt. Nalini Jena would be Rs. 6550/- whereas that of the applicant would be 6375/-. The Respondents have pointed out that the pay fixed under Annexure-R/7 was not challenged by the applicant during 2000 but it is only on 18.06.2001, the applicant represented for fixation of her pay at par with Respondent No.4.

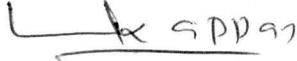
5. Heard Ld. Counsel for either sides and also perused the materials placed on record.

6. It reveals from the record that on the date of financial upgradation both the applicant as well as Respondent No.4 were in the scale of 5000-150-8000 and were drawing basic pay of 6050 and were later placed in the higher scale of Rs. 5500-175-9000. Whereas Smt. Nalini Jena vide Annexure-R/5 gave a vague option letter, the applicant in Annexure-A/2 as well as in Annexure-R/4 gave the option to the effect that her pay may be fixed as per F.R.22(1)(a)(1) from the date of her increment or whichever will be beneficial to her. The Respondents on receipt of the representation of the applicant ought to have taken into consideration the disadvantaged position of the applicant vis-a-vis the Respondent No.4. Respondent No.2 should have made serious effort to grant the benefit of the ACP to the applicant at par with Respondent No.4 instead of relying on the letter of the applicant at Annexure-A/2 or Annexure-R/4. Respondents ought to have seen that the options exercised by both the employees were almost one and the same. In that situation, the applicant's pay would have been fixed in the same way as it was fixed in the case of Respondent No.4 as that sort of fixation would have been beneficial to the

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applicant. The earlier fixation could have been modified and the anomaly removed.

6. In the aforesaid circumstances, the Respondent No.2 is hereby directed to fix the pay of the applicant in the higher scale of pay of RS. 5500-175-9000/- under the ACP Scheme at par with Respondent No.4 and grant her the consequential financial benefits as admissible under the rules within a period of 60 days from the date of receipt of copy of this order.

7. With the aforesaid observation and direction, the O.A. is allowed. No order as to costs.

  
(K.THANKAPPAN)  
MEMBER (JUDL.)

  
(C.R.MOHAPATRA)  
MEMBER (ADMN.)

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