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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 228 OF 2002  
Cuttack this the 29th day of January/03

Hruday Ranjan Biswal                      ...                      Applicant(s)

-VERSUS-

Union of India & Others                      ...                      Respondent(s)

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 ?

  
( B.N. SOM )  
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.228 OF 2002  
Cuttack this the 29th day of January/2003

CORAM:

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

...

Hruday Ranjan Biswal, aged about 39 years  
Son of Sri Maguni Charan Biswal, at present  
working as Asst. Audit Officer, in the Office  
of the Accountant General(Audit), Bhubaneswar

...

Applicant

By the Advocates

M/s. Ganeswar Rath  
S. Misra  
S. R. Mohanty  
T. K. Praharaj

-VERSUS-

1. Union of India represented by the  
Comptroller and Auditor General of India  
10, Bahadur Saha Zafar Marg  
New Delhi-110 002
2. The Accountant General (Audit-I)  
West Bengal, 4, Brabourne Road,  
Calcutta-700 001
3. The Accountant General(Audit-I)  
Orissa, Bhubaneswar

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Respondents

By the Advocates

Mr. A. K. Bose,  
Sr. Standing Counsel  
(Central)

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ORDER

MR. B.N. SOM, VICE-CHAIRMAN : In this Original Application  
under Section 19 of the Administrative Tribunals Act, 1985,  
the applicant (Sri Hruday Ranjan Biswal) has approached  
this Tribunal seeking the following reliefs.

- "(a) to quash the order No. Admn-I(Au)15-24-AHQ/  
2364 dated 15.3.2002 issued by the office  
of the A.G.(Audit-I), Bhubaneswar, as per  
Annexure-12 to the application;

- (b) to direct the respondents to grant four numbers of advance increments to the applicant in accordance with C.A.G.'s Circular letter No.178-IC(COORD)/1-87 dated 7th September, 1987, as per Annexure-2 to the O.A., which was prevailing at the time of passing of the ICWA(Final) Examination by the applicant instead of lump sum sanction of Rs.6000/- which is to be credited by the applicant;
- (c) to pass other order(s)/direction(s) as may be deemed fit and proper in the bonafide interest of justice; and
- (d) to order and direct that the cost of litigation be paid to the applicant".

2. The fact of the case in brief is that the applicant having been declared to have passed the I.C.W.A. (Final) Examination held in December, 1995 was entitled to six advance increments in terms of C.A.G's Circular No.NGE/74/1987 (Annexure-2). He was, however, denied of the said benefit by the Respondents on the strength of C.A.G.'s letter No.45-NGE(ENTT)/45-93-III dated 24.1.1996 (Annexure-3), which inter alia replaced the existing scheme for grant of advance increments to grant of lump sum amounts. The effect of the new scheme circulated by the C.A.G. under Annexure-3 was ordered to take effect retrospectively, w.e.f. 31.1.1994. The applicant further stated that he had represented to Respondent No.1, i.e., Comptroller and Auditor General of India on 19th October, 1996, to grant him four advance increments as per the scheme applicable as on the date of his passing the I.C.A.W.(Final) Examination, but the same was rejected on the ground that the earlier scheme for grant of advance increments had since been changed. Very soon thereafter the applicant came to know that

9

one Shri A.A.Narasingha Murty, working in the Office of Respondent No.3, who had passed the I.C.A.W.(Final) Examination held in December, 1995, along with the applicant had been granted the benefit of four advance increments in terms of C.A.G.'s letter/Circular at Annexure-3, in pursuance of the judgment of Central Administrative Tribunal, Hyderabad Bench, rendered in O.A.No.678/96. Although he brought this matter to the notice of Respondents, they remained unmoved in the matter. Having failed to obtain justice from the Respondents, the applicant has approached this Tribunal through this Original Application.

3. The Respondents have filed their counter rebutting the plea of the applicant. They also stated that just appearing in any examination cannot be treated as passing the examination and that the date of appearing in any examination cannot be treated as passing the examination. They also reiterated the correctness of retrospective application of the circular at Annexure-3. It has also been stated in the counter that the judgment of Hyderabad Bench of the Tribunal was implemented only in the case of Shri A.A.Narasingha Murthy and not in other cases since that judgment is not applicable in the facts and circumstances in the instant case.

4. I have heard Shri S.N.Mishra, the learned counsel for the applicant and Shri A.K.Bose, learned Senior Standing Counsel appearing for the Respondents.

Shri Mishra, the learned counsel for the applicant drew my notice to the judgment of Hyderabad Bench of the

Tribunal and vehemently argued that the Respondents had miserably failed in implementing the directions contained in that order. He also argued that the Tribunal had not only found Shri A.A.Narasingha Murthy eligible to get the incentive as provided for in the circular dated 7.9.1987 but it directed the Respondents to obtain necessary options "from the applicants and others" with regard to the scheme to be followed in their cases "if those employees had passed I.C.W.A. examination between 31.1.1995 and 24.1.1996". Shri Mishra drew my notice to Annexure-10 to point out that the Respondents did not take any action to obtain necessary options from all those who had passed I.C.A.W. examination between 31.1.1995 and 24.1.1996 nor any instructions were issued to the various field offices. He further argued that the Tribunal in its judgment dated 11.4.1997 had held that Annexure-3 which was issued to have retrospective effect was going to deprive some of the accrued rights of the employees. It, therefore, held that the order issued on 24.1.1996 (Annexure-3) to have only prospective effect and would come into force <sup>from</sup> only/that date onwards. In the circumstances, he argued that as the applicant had also passed the very same ICWA Examination (Final) in which Shri A.A.Narasingha Murthy had also passed in the month of December, 1995 and it was wrong on the part of the Respondents in denying the benefit of advance increments to him. He also stated that denying the benefit to the applicant in the face of the clear direction of Hyderabad Bench of the Tribunal is most unfortunate.

5. There is lot of force in the arguments of Shri Mishra, the learned counsel for the applicant in the matter of applicability of C.A.G.'s circular under Annexure-3 in respect of those officials who had passed the ICAW Examination between January, 1995 and January, 1996. By virtue of the judgment of Hyderabad Bench of the Tribunal, referred to earlier, the Respondents were directed to obtain options from all those employees who had passed the ICAW Examination during the period from 31.1.1995 to 24.1.1996. In the circumstances, the inability of Respondents to extend the benefit of four increments to the applicant defies logic. Not only that, the Respondents should do well to extend similar benefits to all the employees who had passed ICAW Examination between January, 1995 and January, 1996, as directed by the Hyderabad Bench of the Tribunal and ensure full and complete compliance with that judicial order. In view of the aforesaid, the rejection order at Annexure-12 is set aside.

6. Accordingly, this Original Application succeeds leaving the parties to bear their own costs.

  
( B.N. SOM )  
VICE-CHAIRMAN

Bjy/