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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.1416 & 1417 OF 2004

Cuttack this the 19th day of Jan 2006

IN O.A.No.1416/2004

Kunjamohan Biswal... Applicant(s)

-VERSUS-

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

IN O.A.No.1417/2004

Dr.Nikunja Bihari Dash ... Applicant(s)


-VERSUS-

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

FOR INSTRUCTIONS

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


(M.R. MOHANTY)
MEMBER (JUDICIAL)


(B.N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NOS.1416 & 1417 OF 2004
Cuttack this the 19th day of Jan. 2006

CORAM:

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

• THE HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIALA)

...

IN BOTH THE O.As

1. Kunjamohan Biswal, aged 58 years, S/o. late Dhruba Charan Biswal, at present working as Technical Officer (T-6), Officer Incharge, Electrical Maintenance Unit, Central Rice Research Institute (CRRI), At/PO-Bidyadharpur, Dist-Cuttack-753006
2. DrNikunja Bihari Dash aged about 57 years, Son of Sri Kelu Charan Dash, at present working as Technical Officer (T-6) Soil Science and Microbiology Division, Central Rice Research Institute (CRRI), At/PO-Bidyadharpur, Dist-Cuttack-753006

By the Advocates

Applicants
M/s.P.K.Mohapatra
S.Mohanty
P.K.Rout

-VERSUS-

IN BOTH THE O.As

1. Union of India represented through its Secretary, Ministry of Finance, Central Secretariat Building, North Block, New Delhi-110001
2. The Indian Council of Agriculture Research (ICAR), represented through its Secretary, Krishi Bhawan, New Delhi-110001
3. The Central Rice Research Institute (CRRI), represented through its Director, At/PO-Bidyadharpur, Dist-Cuttack-753006

By the Advocates

Respondents
Mr.S.B.Jena
S.Behera

ORDER

MR. B.N.SOM, VICE-CHAIRMAN: Since the common question of law arising out of similar facts and circumstances is involved to be

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decided, we direct that this common order will govern both the cases mentioned above. For the sake of convenience, the facts as stated in O.A.No.1416/2004 are being referred to.

2. The applicant who is working as Technical Officer in the Establishment of Respondent No.3 has challenged the action of the Respondents in not extending the benefit of pay scale as granted to similarly situated persons vide Office Order Nos.2/22/71-P.B. Admn.-1/253(13) and 2.20/71-PB-Admn-1/56(7) dated 30.12.1995 and 03.01.1996 respectively. He has also assailed the action of the Respondents as whimsical and not sustainable in the eye of law.

3. It is not necessary to go into too much details of facts of the case. The grievance of the applicant as raised herein had also been raised earlier before this Tribunal in O.A. Nos.581 and 237 of 2002 – disposed of on 22.7.2004. Before we go into the decision of this Tribunal in those O.A.s, it is pertinent to note that the Respondents by filing a detailed counter have refuted the allegations made by the applicant. They have taken the stand that the claim of the applicants is that the benefit of higher scale in technical cadre having been granted to the applicants in O.A.nos.291 and 292 of 1995 should also be extended to them is not tenable. The Respondents have admitted that the grant of benefit to the applicants in O.A.Nos.291 and 292 of 1995 was done erroneously and that cannot be a ground/reason for extension of the said benefit to the applicants herein.

They, in their counter have further disclosed that the said matter, i.e., whether the benefits once extended erroneously to some employees could be extended to others was considered by the Hon'ble Supreme Court in the case of I.C.A.R. vs. Suryanarayan, 1997 Lab. IC 2926 and in consideration of the matter, the Apex Court held as under:

“Even if in some cases erroneous promotions had been given contrary to the said service Rules and consequently such employees have been employed to enjoy the fruits of improper promotion, an employee cannot base his claim for promotion contrary to the statutory service rules in law Court. Incorrect promotion either given erroneously by the department by misleading the said Service Rules or such promotion given pursuant to judicial orders contrary to Service Rules cannot be a ground to claim erroneous promotion by perpetrating infringement of Statutory Service Rules”.

4. In view of the above submission of the Respondents that the claim with regard to extension of erroneous benefit granted to some employees had been brought to the notice of the Apex Court and the said Court upon considering the facts and circumstances of the case had held that incorrect promotion either given erroneously by the Department or such promotion given pursuant to judicial orders contrary to service rules could not be a ground to claim erroneous promotion by perpetrating infringement of statutory service rules, the whole controversy should have come to a rest. In other words, as the applicants' sole reliance is on the implementation of the order passed by this Tribunal in O.A.Nos.291 and 292 of 1995, they do not have any case as the matter regarding fixation of pay for technical personnel has already

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been decided by the Apex Court while disposing of the Civil Appeal No.4729/91 in I.C.A.R. vs. K.M.Das reported in 1994 Supp.(3) SCC 595 as well as in Sanjukta Das & Ors. In Civil Appeal No.6673 of 1993 decided on 26.9.1997. In view of the settled position of law as enunciated by the Hon'ble Supreme Court (supra), we see no merit in both the O.As which are accordingly dismissed. No costs.



(M.R.MOHANTY)
MEMBER(JUDICIAL)



(B.N.SOM)
VICE-CHAIRMAN