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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

OA No.122 of 2005  
Cuttack, this the 20th day of January, 2009

Purna Chandra Nayak .... Applicant  
Versus  
Union of India & Ors. .... Respondents

FOR INSTRUCTIONS

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

  
(JUSTICE K. THANKAPPAN)  
MEMBER (JUDICIAL)

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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

O.A.No.122 of 2005  
Cuttack, this the 20th day of January, 2009

C O R A M:

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

Sri Purna Chandra Nayak, aged about 51 years, S/o. Late Sudarsan Nayak at present working as Observatory Attendant Meteorological Office, Main Gate Biju Patnaik Airport, Dist. Khurda.

.....Applicant

By Advocate: M/s. C.Ananda Rao, A.K.Rath, S.K.Behera,  
S.F.Ahmed.

- Versus -

1. Union of India represented by the Secretary, Ministry of Science & Technology Meteorological Department, New Delhi.
2. Director General Meteorological Department, I.M.D, Mousam Bhaban, New Delhi-1.
3. D.D.G.M, Metrological Department, Regional met Centre, Alipore, Kolkata (WB)-27.
4. Director, Metrological Office, Bijupatnaik Airport, Bhubaneswar, Dist. Khurda.

....Respondents

By Advocate :Mr.S.B.Jena

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O R D E R

Per- MR. C.R.MOHAPATRA, MEMBER (A):-

Applicant at present working as Observatory Attendant Metrological Office, Bhubaneswar, having been declared surplus while working in the DNK Project, was redeployed in the present organization.

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2. In order to meet the genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues, on the recommendation of the 5<sup>th</sup> Pay Commission, the Government of India, as a safety net measure accepted and floated a policy commonly known as Assured Career Progression (ACP) Scheme. The scheme provides for grant of two financial up-gradations in the entire service career of a Government servant, if no regular promotion during the prescribed periods (12 and 24 years) has been availed of by an employee. It further provides that if an employee has already got one regular promotion, he shall qualify for the second financial up-gradation only on completion of 24 years of regular service under the ACP Scheme. It also envisages that in case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP scheme shall accrue to him. The condition 6 of the said scheme envisages that fulfillment of conditions of normal promotion shall be ensured for grant of benefits under the ACP scheme. The applicant having been denied the benefits of the ACP under Annexure-12 dated 20.12.2004 has approached this Tribunal in the present Original Application filed under section 19 of the A.T.Act, 1985 seeking to quash the impugned order of rejection under Annexure-12 and to direct the respondents to grant the benefits of two up-gradations as provided under the Scheme.

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3. Respondents opposed the prayer of the applicant by stating that as the Applicant does not fulfill eligibility conditions provided in the rules for promotion to the next grade, he was not entitled to the ACP; as for getting the financial up-gradation under ACP, one has to fulfill the norms for promotion as provided in the rules. It has further been maintained by the Respondents that according to the applicant he is a plucked matriculate but in spite of opportunity he failed to substantiate that he had ever appeared at the HSC examination.

4. However, through rejoinder the applicant has produced copy of the order dated 08.09.2005 granting him the first financial up-gradation w.e.f. 22.01.2001. This itself establishes that the grounds stated in the counter in support of the stand of the Respondents that the Applicant is not entitled to the ACP benefits due to he being ineligible for promotion can no longer be canvassed. Applicant's appointment from 7.5.1976 in the DNK Project has not been disputed by the Respondents. As such, it can safely be presumed that instead of first financial up-gradation, the Applicant is entitled to the second up-gradation with effect from the date when he completed 24 years of service, of course not earlier than the date of coming into force of the ACP scheme. Accordingly, the Respondents are hereby directed to grant the second financial up-gradation as per ACP

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scheme to the Applicant within a period of 60 days from the date of receipt of copy of this order.

5. In view of the above, this OA stands allowed in terms of the observation and direction made above. There shall be no order as to costs.

K. Thankappan

(JUSTICE K. THANKAPPAN)  
MEMBER (JUDICIAL)

Chakraborty

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

Knm,ps