

13


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.


Original Application No. 542 of 2005
Cuttack, this the ~~27th~~ day of August, 2008

Padmanava Sethi & Ors. Applicants
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

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


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


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

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 542 of 2005

Cuttack, this the ~~27th~~ day of August, 2008

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)

1. Sri Padmanava Sethi aged about 48 years, S/o.Late D.Sethi, At-Ambara, Post. Belarpur, Via-Thakurpatna, Ps/Dist.Kendrapara at preent working as Labourer, Govt. of India, Text Book Printing Press, Mancheswar, Bhubaneswar.
2. Sri Prahallad Nayak, aged about 44 years, S/o.Late Adikanda Nayak, At/Po.Govindapur, Via-Pipili, Dist. Puri at present working as Labourer, Governmetn of India, Text Book Printing Press, Mancheswar, Bhubaneswar.
3. Sri Purnachandra Nanda, aged about 42 years, S/o.Late Basudev Nanda, Vill. Alloy, Po. Padmapur, Via.Banmalipur, Dist. Khurda, at present working as Labourer, Governmetn of India, Text Book Printing Press, Mancheswar, Bhubaneswar.
4. Sri Linkaraj Das, aged about 44 years, S/o.Loknath Dash, At. Ambili Gaon, Po.Dhanitri, PS/Via.Konark, Dist. Puri, at present working as Labourer, Governmetn of India, Text Book Printing Press, Mancheswar, Bhubaneswar.
5. Sri Dharanidhar Sahu, aged about 42 years, S/o.Kunja Sahu, At. Tarabatia, PS. Laxminarayanpur, Via.Balkati, Khurda, at present working as Labourer, Governmetn of India, Text Book Printing Press, Mancheswar, Bhubaneswar.
6. Sri Sisir Kumar Samal, aged about 43 years, S/o.Sarat Kumar Samal, At-L-631, 2nd phase, Dumduma Housing Board Colony, Po.Khandagiri, PS. Khandagiri, Khurda, at present working as Labourer, Governmetn of India, Text Book Printing Press, Mancheswar, Bhubaneswar.

.....Applicants.

L

Legal practitioner: Mr.K.C.Kanungo Counsel

- Versus -

1. Union of India represented through its Secretary to Governmtn of India, Ministry of Urban Affairs and Employment, New Dehi.
2. Director, Governemtn of India, Directorate of Printing, 'B' Wing, Nirman Bhavan, New Delhi.
3. Manager, Government of India Text Books Press, Mancheswar, Bhubaneswar.

....Respondents

Legal Practitioner : Mr. U.B.Mohapatra, SSC.

ORDER

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

Applicants are employees of Government of India Text Book Printing Press, Bhubaneswar working as Labour in the scale of pay of Rs. 2550-3200/-. In this Original Application filed U/s.19 of the A.T.Act, 1985 they have challenged the action of the Respondents in putting them in the scale of pay of Rs.2650-4000/- towards first up-gradation under ACP. Their grievance is that in Mysore Text Books Press of the Government of India, labourers, like the present Applicants have been allowed the scale of pay of Rs.3050-4590/- towards first up-gradation under ACP and though the applicants are entitled the same scale of pay under ACP, their pay was upgraded only to Rs.2650-4000/- . According to Applicants, financial up-gradation under ACP scheme is to be allowed in the existing hierarchy. There is no promotional post for the

2

labourers carrying the scale of pay of Rs.2650-4000/- . The next promotion of the labourer as per recruitment rule is to the post of either Attendant or Asst. Binder or Assistant Mechanic carrying the scale of Rs.3050-4590/- depending upon availability of vacancies. In support of the above contention Learned Counsel for the Applicants has placed on record a copy of the order dated 04.01.2007 as Annexure-A/5 promoting Shri Kailash Chandra Gochhayat working as Attendant in the scale of pay of Rs. 2050-3200/- to the post of Offset Machine Attendant carrying the scale of pay of Rs.3050-4590/-. It is the further case of the Applicants that the Labourers cannot be treated as common category of post and, therefore, OM under Annexure-A/4 dated 05.11.2004 is not sustainable in the eyes of law and that since the representation of the Applicant No. 1 did not yield any result, they have approached this Tribunal seeking modification of the order under Annexure-A/2 so far as Applicants are concerned and to direct the Respondents to extend the scale of pay of Rs.3050-4590/- towards the first up-gradation scale under ACP retrospectively i.e. from the date(s) of their entitlements. They have also sought for quashing of the Office Memorandum under Annexure-A/4 dated 05.11.2004.

L

17

-4-

2. Respondents filed their counter stating therein that the Directorate of Printing, New Delhi/Respondent No.2 had taken up the matter with the Department of Personnel and Training, New Delhi regarding grant of suitable pay scale of Rs.3050-4590(S-5) as 1st financial up-gradation and Rs.4000-6000/-(S-7) as 2nd financial up-gradation under ACP Scheme to the Labourers in Government of India Presses after 31.05.2003 i.e. the date from which revised Recruitment Rules for the Group C and D Industrial Posts came into effect. In reply thereto, the Department of Personnel and Training issued instruction that the posts of Labourer in the Government of India Presses have to be treated as a common category post and in terms of clarification No.56 of OM dated 18.7.2001, the Labourer may be allowed two ACPs in the scales of Rs.2650-4000/- (S-3) and Rs.3050-4590/- (S-5) only. It was further clarification that irrespective of ACP scales, promotion of Labourers may continue to be regulated as per the existing Recruitment Rules. Accordingly Shri K.C.Gochayat has been promoted to the post of O/S Machine Attendant carrying the scale of pay of Rs.3050-4590/- against a clear promotional vacancy of labourer. By filing additional counter it has been stated by the Respondents that the pay scale allowed to the labourers working in the Government of India Tex Book Press at Mysore on first

L

18
-5-
financial up-gradation under ACP is under review and the overpayment is to be recovered consequent upon the decision communicated to all Govt. of India presses vide Directorate of Printing OM dated 5.11.2004 (Annexure-R/1).

3. Arguments of the parties were heard and the materials placed on record were perused. None of the parties produced the Rules showing the hierarchy of promotion and scales attached to the posts. While dealing with various points in regard to grant of ACP, it has been clarified in point No.56 as under:

"If, however, the Fifth Central Pay Commission has recommended a specific pay structure/ACP grades for a particular category in an organization, which may seemingly belong to a common category, then the mobility under ACPS in respect of such specific posts in that organization shall be through the grade structure/ACPS grades recommended for that organization, if the same has been approved by the Government and not the standard grade/hierarchical structure recommended for such common category."

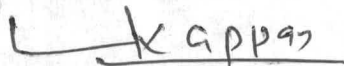
4. It is trite law that that the nature of work, responsibilities and pay of posts are matters which can be better evaluated by the experts in the management and, therefore, classification of the posts into different categories with different pay scales should be left to be determined by the management and Government. It is not proper for the Tribunal or any


L

-19- -6-

court to determine it by relying upon affidavits only and that too of the interested persons. Since as a matter of policy, the Government of India have treated the Labourers as a common category post thereby deciding grant of a particular scale under ACP, we find no justifiable reason to interfere in the matter.

5. In view of the above, this Original Application is held to be without any merit and the same stands dismissed, by leaving the parties to bear their own costs.


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


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

KNM/PS.