

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

OA No.421 of 2006
Cuttack, this the 20th day of January, 2009

Natabar Sahu 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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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 Natabar Sahu, aged about 64 years, Son of Late Arjun Sahu, Village/Po.Jagmohan, PS. Aska, Dist. Ganjam at present residing at House No. M.35 1st Phase, Bhimatangi Housing Board, Bhubaneswar, Dist. Khurda, Ex.LDC in the office of the Regional Director, Regional Office of Health and Family Welfare, B.T 25,BJB Nagar, Bhubaneswar 751 014, Dist.Khurda.

.....Applicant

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

- Versus -

1. Union of India represented by the Secretary, Ministry of Health and Family Welfare, New Delhi.
2. Director General of Health Services, Nirman Bavan, New Delhi.
3. Deputy Director, Administration (AKB), R.D.Cell in the office of Director General of Heath Services Nirman Bhawan, New Delhi-110 0011.
4. Regional Director, Regional Office for Health and Family Welfare, B.J 25, BJB Nagar, Bhubaneswar-14, Dist. Khurda (Orissa).

....Respondents

By Advocate :Mr.S.K.Parida

O R D E R

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

On being declared surplus from the office of DNK Project, the Applicant was redeployed in the Regional Office of Health and Family Welfare where he joined on 14.12.1985 as LDC with protection

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of pay. In the DNK Project the applicant was appointed as Works Assistant Grade-II carrying the scale of pay of Rs.330-480/- The scale of Rs.330-480/- was subsequently revised to Rs.4000-6000/- in the wake of the Vth Pay Commission. Although the Applicant joined in the post of LDC, he was allowed to draw the scale of Rs.4000-6000/-.

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 5th Pay Commission, the Government of India, as a safety net measure accepted and floated a policy decision 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) have 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-11 dated 29.11.2004 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-11 and to direct the respondents to grant the benefits two up-gradation as provided under the Rules.

3. According to the Respondents as per the clarification No.40 of DOP&T OM dated 18.7.2001 and clarification No. 53 of DOP&T OM dated 18.7.2001 Shri Sahu, the Applicant does not fulfill the requisite recruitment criteria being not a Matriculate so as to be entitled to the benefit of ACP. Further it has been pointed out that relaxation of educational qualification was allowed while absorbing him in the post of LDC in the regional office for Health and Family Welfare, Bhubaneswar. But further relaxation for promotion/ACP in the grade of UDC may not be applicable and although the applicant is in the grade of LDC in fact he is drawing the scale meant for the post of UDC. In the light of the above, the Respondents have opposed the prayer of the Applicant.

4. No rejoinder has been filed by the Respondents.

5. Learned Counsel appearing for the parties have reiterated their stand taken in the pleadings and having heard them at length perused the materials placed on record.

6. It is true that as per the scheme of ACP and subsequent clarifications issued thereon one is required to fulfill all promotional norms for up-gradation under the scheme. The Applicant lacks required qualification of Matriculation. But the fact of the matter is that applicant's appointment in the post of LDC was only after relaxation of rules in regard to passing the Matriculation examination. Once he entered as LDC he has a right to be considered in his turn for promotion to the post of UDC. Deficiency of this qualification certainly cannot be a bar for consideration for such promotion once he is born in the cadre of LDC. Further on up-gradation of his scale under ACP he does not require to perform any higher duty or responsibility. Therefore, denial of the ACP benefit for the reason stated by the Respondents would not meet the aim and object for which the scheme was introduced by the Respondents. In view of the above, we hold that the applicant is entitled to the benefits of ACP, if he is otherwise eligible, which the Respondents are hereby directed to grant to the Applicant within a period of sixty days from the date of receipt of copy of this order.

7. In the result, this OA stands allowed with the observations and directions made above. No costs.

K. S. APPA
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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