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O.A. No. 741 of 2006

Order dated 01-11-2006.

Heard Mr. S.Rath, Learned Counsel appearing for the Applicant, Mr. A.K.Bose, Learned Government Advocate for the State of Orissa and Mr. U.B.Mohapatra, Learned Senior Standing Counsel for the Union of India. Learned Counsel appearing for the applicant undertakes to serve copy of the OA on Mr. Bose, in course of the day.

Applicant, an IAS officer (now posted as Commissioner Cum Secretary, Board of Revenue, Orissa, Cuttack) has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 stating that although she is entitled to the benefits granted by the Government of India with effect from 01-04-2004 under Annexure -A/1 dated 01-03-2004, she has illegally been granted the same at a later date under Annexure-B/1 dated 25th April, 2006. Therefore, she has prayed the following relief:

- “(a) To quash the order under Annexure-5;
- (b) To merge 50% of the D.A. admissible to the applicant as on 1.4.2004 in the Basic Pay and pay the emoluments including all other allowances to the applicant;
- (c) To pay the arrear along with interest from the date the amount is due and admissible.”

Learned Counsel appearing for the applicant drew my attention to the Division Bench decision of this Tribunal dated 16th October, 2006 passed in Original Application No. 557 of 2005 (**Mahesh Chandra Mohanty vrs. Union of India and others**) the relevant portion of which is quoted herein under:

“We do not find any justification in the denial of the benefit of OMs dated 01.03.04 and 31.03.2004 to the members of all India Services, including the Applicant from 01.03.04 when the pay and allowances, in particular the DA of the applicant, was regulated by All India Services (DA) Rules, 1951. As a member of All India Services, the applicant was entitled to the benefit arising out of the Memorandum dated 31.03.2004 from a date it was granted by the Central Government. As he has been denied on unreasonable ground it is contrary to rules and cannot be upheld.”

However, since this Tribunal has been approached without exhausting the departmental remedies, I am not inclined to entertain this Original Application at this stage and, therefore, on the request of the Learned Counsel appearing for the Applicant, this Original Application is disposed of by giving liberty to the applicant to file representation, if so advised, to the Respondents/competent authorities who shall consider and dispose of the same, keeping in mind the orders passed

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by this Tribunal in the case of **Mahesh Chandra Mohanty** (supra),
within the period of two months from the date of receipt of such
representation. There shall be no order as to costs.

Send copies of this order along with copies of the OA to
the Respondents and free copies of this order be given to learned
counsel for both sides.

P.M.
MEMBER(ADMN.)