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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 199 OF 2007**  
**CUTTACK, THIS THE 28<sup>th</sup> DAY OF November, 2008**


R.Balakrishna Rao ..... Applicant

Vs

Union of India & Others ..... Respondents

**FOR INSTRUCTIONS**

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

  
(A. K. GAUR)  
MEMBER (JUDL.)

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

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**ORIGINAL APPLICATION NO. 199 OF 2007**  
**CUTTACK, THIS THE 28<sup>th</sup> DAY OF November, 2008**

**CORAM :**

**HON'BLE MR. A. K. GAUR, MEMBER(J)**

**HON'BLE MR. C.R. MOHAPATRA, MEMBER(A)**

.....

R. Balakrishna Rao, S/o. R. Appalaswamy, retired Principal of Jawahar Navodaya Vidyalaya, Block No.1, 3<sup>rd</sup> floor T-2, S.B.I. Colony, H.No.12-2-417/B-12, Hyderabad-500028.

.....Applicant

Advocate(s) for the Applicant- M/s. A.K.Bose, P.K.Das, D.K.Mallik

**VERSUS**

1. Union of India represented by the Secretary, Human Resource Development, Government of India, C-Wing, Shastri Bhawan, Central Secretariate, New Delhi-110001.
2. Chairman, Navodaya Vidyalaya Samiti, C-Wing, Shastri Bhawan, Central Secretariate, New Delhi-110001.
3. Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi-110048.
4. Deputy Commissioner, Navodaya Vidyalaya Samiti, Regional Office 160 Zone-II, M.P.Nagar, Bhopal-462011.

..... Respondents

Advocates for the Respondents – Mr. U.B.Mohapatra.

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ORDER

HON'BLE MR.C.R.MOHAPATRA, MEMBER(A)

The Applicant is a retired Principal of Jawahar Navodaya Vidyalaya in Narala, Dist. Kalahandi, Orissa. He is aggrieved by the order at Annexure-A/8 under which he was denied extension of service beyond the date of superannuation as he was a national awardee under the Scheme of National Awards to teachers promulgated as a matter of policy by the Ministry of Human Resource Development, Govt. of India. According to the Applicant, he was first national awardee teacher in the year 2002 belonging to Navodaya Vidyalaya Samiti, which is an autonomous organization under the Ministry of Human Resource Development, Govt. of India. He was given this prestigious national award by the President of India on 05.09.2003. He claims that the awardee teachers are eligible for two years extension of service in the States and in the Union Territories. He retired on superannuation on 31.05.2004, without getting this advantage of two years extension as has been promulgated, adopted and extended to all such similarly situated employees of the Government. Hence, he has filed the present O.A. with the following prayers:

“ 8(A) The order dated 18.10.2005  
passed by the NVS under Annexure-A/8 be

2

quashed and it may declared that the applicant is entitled to extension of service of two years after his date of superannuation on 31.05.2004.

(B) The Respondents be directed to regularize the contractual service of the applicant as the extension of service and consequential service benefits be also given to the applicant within the time to be stipulated by this Hon'ble Tribunal."

2. The Applicant contends that prior to his retirement on superannuation on 31.05.2004, the Collector-cum-Chairman, JNV, Kalahandi requested Respondent No.3 for extension of two years service as per the scheme he being a national awardee teacher. The same was recommended by the Joint Director (Admn.) and the Commissioner finally suggested that the matter should be taken up before the Executive Committee and pending approval of the Executive Committee, the Applicant was recommended by the Commissioner to be given appointment on contractual basis for one year and that based on the approval of the Executive Committee, the contract shall be regularized and shall be treated as extension of service at a later date (Annexure-A/4). The Applicant further contends that he was given contractual appointment as Principal for one year vide Annexure-A/5 for the period 01.06.2004 to 30.04.2005. Again vide Annexure-A/7, he was retained on contract basis w.e.f. 01.05.2005 to 30.04.2006 on fixed remuneration of Rs. 10,000+D.A., as admissible under rules. Thus practically, he

2

got two years beyond the date of retirement on contractual basis. The contention of the Applicant is that Executive Committee of NVS in its meeting held on 12.04.2005 approved grant of extension of service for two years beyond the age of superannuation to those teachers, who were awarded nationally by the Ministry of HRD, Govt. of India (Annexure-A/6). This benefit was not made available to him as by that time, he had retired on superannuation though continued to work on contract basis. His further contention is that since he was eligible in terms of the provisions of the scheme, he was entitled for extension of two years service after the normal date of superannuation and the matter should have been decided before his retirement and the delay in placing the matter before the Executive Committee in May 2005 should not act detrimental to his interest particularly when his services were in fact extended for two years although on contract basis. It is against the above background, he has challenged the order communicated vide Annexure-A/8.

3. The Respondents by filing the counter have opposed the prayer of the Applicant and have admitted that the Applicant was a National Awardee Teacher and he also was appointed as Principal on contractual basis for a period of two years w.e.f. 01.06.2004-30.04.2006. The Respondents have

submitted that though the teachers working in the NVS had become eligible for national award during 2003, the Executive Committee of the NVS took a decision on 12.04.2005 to grant extension of service for National Awardee Teachers by two years beyond superannuation. The request of the Applicant was not acceded to as according to the Respondents, the decision of the Executive Committee was prospective one and cannot be given effect retrospectively. As the Applicant had retired from service of Samiti prior to the decision of the Executive Committee, he is not entitled to. The Respondents further contended that though the Scheme existed, it can be applied to the Samiti on approval of the Committee headed by Chairman and the approval was accorded only on 12.04.2005 by which date the Applicant had retired from service, and as such the benefits could not be extended to him. This is the sum and substance of the counter filed by the Respondents.

4. Copy of scheme published by the Ministry of Human Resource Development was produced by the applicant through his rejoinder. On perusal of contents of paragraph-2 of the Scheme it reveals that the number of awards has been increased from 302 to 350 from the award year 2000-2001 in which Navodaya Vidyalayas have a share. The Applicant focused on one issue that though the Applicant was eligible and

also entitled to get extension of two years in service, this was denied to him for the reason of delay in convening the Executive Committee meeting. Had the committee met prior to the superannuation of the applicant, he would have been given this benefit.

5. Heard Ld. Counsel for either side and perused the records.

6. Counsel for the Respondents has reiterated their stand about the non-applicability of the decision taken by the Executive Committee which has no retrospective effect.

7. Neither in the counter nor during hearing, it was disputed by the Respondents that the Navodaya Vidyalaya Teachers are not covered under the Scheme for grant of benefits to distinguished teachers as per the scheme promulgated by the Ministry of Human Resource Development. It is also not in dispute that the Applicant was National Awardee of the year 2003. It is also a fact that the concerned authorities had recommended his extension and even offered contractual appointment with a condition that if Executive Committee approves, the contractual period can be treated as extension at a later date. At page 20 of the O.A. it reveals that the Executive Committee at its meeting held on 12.04.2005 approved proposal for giving extension of service to National Awardees



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and the Applicant was given extension of contract for one year vide order dated 25.04.2005 by the Commissioner.

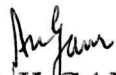
8. While the scheme is a beneficial one, certainly benefits cannot be extended discriminatorily. It is trite law that discretion cannot be used discriminatorily and if it is so then utilization of discretion cannot stand on scrutiny of law. In the instant case it is established that the Applicant was entitled for extension of two years of service as a National Awardee but for the delay in convening the Committee, the case of the Applicant was not considered though he was allowed to continue on contractual basis for two years. While giving the benefits to others, Applicant's case received no consideration. For the delay in convening committee, the Applicant should not be made to suffer. Therefore, the inevitable conclusion would be that there has been miscarriage of justice in the decision making process of the matter.

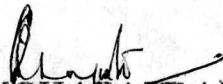
9. In the light of the discussions made above, the Respondents are hereby directed to re-examine the case of the Applicant for regularization of two years contractual service by a Committee within a period of 90 days from the date of receipt of a copy of this order.

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10. In the result, the O.A. is allowed to the extent indicated above. No order as to costs.

  
(A.K. GAUR)  
MEMBER (JUDL.)

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

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