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OA No.145 of 2008

Benudhar Panda .... Applicant  
Versus  
Union of India & Others .... Respondents

Order dated:- 09th March, 2010

C O R A M

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

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By filing this Original Application under section 19 of the A.T.

Act, 1985, the Applicant Benudhar Panda working as BCR (PA) Office of the CPMG, Orissa Circle, Bhubaneswar seeks to quash the order of rejection under Annexure-A/15 dated 13<sup>th</sup> February, 2006 of his prayer for grant of HRA from 8/2001 to 1/2005 and the order under Annexure-A/17 dated 21.11.2007 refusing to forward his appeal dated 15.01.2007 submitted by the Applicant against the order of rejection under Annexure-A/15 on the ground of submission of appeal belatedly. Respondents filed their counter objecting to the contentions of the Applicant. Applicant has also filed rejoinder. But on a bare look at the order of rejection under Annexure-A/17 dated 21.11.2007 I do not find any justifiable reason to allow the order to stand for the reason that the Applicant submitted his appeal to the Respondent No.1 through proper channel giving the justification for making the appeal belatedly. Respondent No.2 has no authority or competence to reject forwarding of the appeal on the ground of delay in submitting the appeal with a view to justifying his order under Annexure-A/15. It amounts to usurping the power of the Appellate Authority which is not permissible in the touch stone of judicial scrutiny. Once an appeal is preferred by an employee through proper channel, the same needs to be forwarded to the appellate authority. In view of the above, I find substantial force in the submission of the Learned Counsel for the Applicant that there has been miscarriage of justice caused to the Applicant in the

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decision making process of withholding the appeal of the Applicant under Annexure-A/17. Hence, the order under Annexure-A/17 is hereby quashed. It is seen that the Respondent No.1 is the appellate authority to whom the appeal was preferred by the Applicant. In this case, notice has already been served on him. Hence without expressing any opinion on the merit of the matter, this Original Application is disposed of with direction to the Respondent No.1 to consider and dispose of the appeal of the applicant on merit and pass a reasoned order and communicate the same to the applicant within a period of 45 days hence. There shall be no order as to costs.

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