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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.376 OF 2008

Cuttack this the 26th day of March, 2012

Sri Prasanna Kumar Das Applicant
Versus
Union of India & Others Respondents

FOR INSTRUCTIONS

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

(C.R.MOHAPATRA)
Member (Admn.)

Patnaik
(A.K.PATNAIK)
Member (Judl.)

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ORIGINAL APPLICATION NO.376 OF 2008

Cuttack this the 26th day of March, 2012

COERAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNIK, JUDICIAL MEMBER

Sri Prasanna Kumar Das, aged about 45 years, S/o.
Trilochan Das – at present working as Accountant in the
office of the Accountant General (A&E), Orissa,
Bhubaneswar

...Applicant

By the Advocates:Miss.C.Padhi
-VERSUS-

1. Accountant General (A&E), Orissa, Bhubaneswar;
2. Senior Deputy Accountant General (Admn.), O/o. the Accountant General (A&E), Orissa, Bhubaneswar
3. Accountant General/Admn.II, O/o. Accountant General (A&E), Orissa, Bhubaneswar
4. Sri Subhash Chandra Parida, Sr.Accountant, O/o. the A.G. (A&E), Orissa, Bhubaneswar
5. Sri P.Jagdeswar Rao, Sr.Accountant, O/o. the A.G. (A&E), Orissa, Bhubaneswar
6. Sri Purusottam Nayak, Sr.Accountant, O/o. the A.G. (A&E), Orissa, Bhubaneswar
7. Sri Biswajit Mazumdar, Sr.Accountant, O/o. the A.G. (A&E), Orissa, Bhubaneswar
8. Sri B.Sankar Rao, Sr.Accountant, O/o. the A.G. (A&E), Orissa, Bhubaneswar

...Respondents

By the Advocates:Mr.U.B.Mohapatra, SSC(Res.Nos.1 to 3)

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O R D E R

A.K.PATNAIK, MEMBER(J):

Shorn of unnecessary details, it would suffice to
note that the applicant, while working as Accountant under the
Respondent-Department, pursuant to an advertisement made

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by the UPSC, he was selected and appointed as Enforcement Officer in the office of the Employees Provident Fund Organization, Calcutta with effect from 27.7.2000. While continuing as such, he submitted a representation/one month's notice dated 23.5.2003 requesting the Central Provident Fund Commissioner to repatriate him to his parent Department. The applicant was relieved of his duties with effect from 14.8.2003(AN). Since he could not join his parent Department during the period of his retention of lien, he was, however, allowed to join under certain stipulations as contained in Annexure-A/5 letter dated 17.8.2004. While the matter stood thus, aggrieved with the conditions stipulated in letter dated 17.8.2004 viz; the period from 25.7.2003 to 18.8.2004 shall be treated as dies non], the applicant submitted representation to his authorities for treatment of that period as duty for all purposes. Having received no response, he had moved this Tribunal in O.A.No.375/2008 before this Tribunal seeking the following relief:

- i) Quash the terms and conditions mentioned in Admn.-1-2P-532 dated 17.89.2004(Annexure-A/5);
- ii) Release of the withheld pay and allowances for the period from 26.7.2003 to 16.8.2004;
- iii) For the refund of the sum of Rs.48,053.00 paid by the applicant towards pension and leave salary contribution;

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iv) Issuance of direction to the EFP authorities to bear the liabilities of pension and leave salary contribution."

2. This Tribunal, vide order dated 28.3.2011 disposed of the said O.A. in the following terms:

"For the reasons stated above as well as the well settled position of law as discussed above, invocation of the provisions of FR 17(1) is held to be unwarranted on the part of the Respondents and therefore, as per the conditions stipulated in the advertisement and Rules, the EFP organization is liable to remit the pension contributory amount for the period from 27.7.2000 to 30.6.2003 which they shall do, if not already done, within a period of 45 days of relieve till the date of joining in Accountant General, Orissa the period of the applicant from 25.07.2003 to 18.08.2004 would be treated as duty for all purpose but the applicant shall not be entitled to any back wages, having spent the aforesaid period without any duty and no document has been produced to show that he was not in any employment during the aforesaid period. Accordingly, the Respondents (Accountant General, Orissa) are hereby directed to refund the applicant amount already deposited by the applicant forthwith".

3. In the instant O.A., the applicant has prayed for direction to the Respondents to promote him to the grade of Senior Accountant retrospectively with effect from 01.11.2006, i.e., from the date his juniors have been promoted along with all consequential benefits.

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4. The Respondents have filed their counter opposing the prayer of the applicant to which, the applicant has also filed rejoinder.

5. We have heard Miss C.Padhi, learned counsel for the applicant and Shri U.B.Mohapatra, learned Senior Standing Counsel for the Respondents and perused the materials on record.

6. It reveals from the record that the applicant has not agitated his grievance before the Respondents regarding his promotion to the grade of Senior Accountant with effect from the date his juniors were so promoted as simultaneous to OA No. O.A.NO.375/2008, he had moved this Tribunal in the present OA. Therefore, there is no scope left for the Respondents to put up their submissions after the orders of this Tribunal in O.A.No.375/2008 treating the period from 25.07.2003 to 18.08.2004 as duties for all purposes, could be passed by this Tribunal.

7. In the circumstances, it would not be proper to consider the prayer of the applicant for promotion to Senior Accountant as has been made in this O.A. It is, however, directed that if so advised, the applicant may seek remedy by ventilating his grievance before the competent authority and in

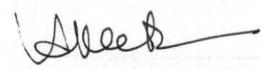
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case any such grievance is put forth, the Respondent-Department, shall consider and dispose of the same with a reasoned and speaking order within a period of 45 days from the date of receipt of such grievance under intimation to the applicant.

8. With the above observation and direction, this O.A. is disposed of. No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER

BKS,PS


(A.K. PATNAIK)
JUDICIAL MEMBER