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O.A. No.46/2008

Order Dated 29.01.2008

Coram : Hon'ble Shri C.R. Mohapatra, Member(A)

Mr.Satyabadi Das, Ld. Counsel appears for the applicant and submits that the applicant has been threatened with recovery of alleged excess amount consequent to the financial up-gradation under A.C.P. Scheme. He refers to Annexure-A/4. He contends that vide Annexure-A/2 the applicant was given financial up-gradation from Rs.8,000-275-13,500/- to Rs.10,000-325-15,200/- w.e.f. 01.02.2003, after completion of 24 years of service. His pay was accordingly fixed by the Institute of Hotel Management Catering Technology & Applied Nutrition, Bhubaneswar. The Principal acting on the basis of the audit report has now communicated to the applicant vide Annexure-A/4 for recovery. The applicant has made representation to the Respondent No.2 at Annexure-A/5 dated 24.01.08. He has made a submission that since the amount has already been received by him because of the pay fixation by the concerned authorities and he is not at fault for having drawn the amount, there is no cause for recovery in-terms of the decision of the Hon'ble Apex Court. The representation is pending and it would take some time as the same has been made only a few days back. The Ld. Counsel for the applicant also brings up that there are certain other individuals in the same capacity, in the same Institute who have been allowed such financial up-gradation and have not been asked for any recovery so far.



9

2. Mr. U.B. Mohapatra, Ld. Sr. Standing Counsel appears for the Respondents and submits that the ACP Scheme is not admissible for Group 'A' Central Services (Technical/Non-Technical) in-terms of the extant orders of the Govt. at Annexure-A/1 Para-2. According to him the applicant is a Group 'A' Officer. It is the Principal of the Institute, who under the instruction of the Board of Governors has conveyed about the financial up-gradation. Subsequently, the mistake was detected by the audit and action has been taken for recovery of the excess amount after the pay has been re-fixed in the light of audit observation and the Government orders on the subject.

3. Since, the representation is pending with Respondent No.2 he is directed to decide the representation on the merits of the case within a period of 02 months from the date of receipt of this order and during this period the operation of Annexure-A/4 is stayed and no recovery shall be made till the representation is decided by Respondent No.2.

4. Accordingly, this Original Application is disposed of at the stage of admission. No order as to costs.

5. Copy of this order be handed over to Ld. Counsel appearing for both the sides and copy of this order along with copy of the O.A. be sent to Respondent No.2.

  
MEMBER (A)