

3
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

OA No.706 of 2010
Cuttack, this the 19th November, 2010

Soudamini Mohapatra Applicant
Versus
Union of India & Others Respondents

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THE HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER
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As it appears from the record, the Applicant claiming similar relief (grant of financial up-gradation under MACP), had earlier approached this Tribunal in OA No. 128 of 2010. This Tribunal disposed of the said matter at the admission stage with direction to the Respondent No.2 to consider and dispose of the representation submitted by the Applicant within a period of 60 days. According to the Applicant the order of this Tribunal in OA no. 128 of 2010 was received by the Respondents on 23.3.2010 but despite the specific direction no consideration was given to the request of the Applicant within the time stipulated or even thereafter till the filing of the present OA.

2. Heard Learned Counsel for the Applicant and Mr. P.R.J.Dash, Learned ASC appearing on notice for the

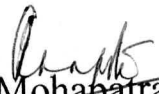
4

Respondents and perused the materials placed on record. Learned ASC appearing for the Respondents vehemently opposed the maintainability of this OA being hit by constructive *res judicata* but I find no substance on the said submission because there was no adjudication of the merit of the matter in the earlier OA. Similarly I do not find any justification to entertain this OA because if the order of this Tribunal was not complied with it is open for the Applicant to avail of the opportunity by making appropriate application but certainly not through the present OA. At the same time I strongly deprecate the action of the Respondent No.2 in not complying with the direction of this Tribunal made in the earlier OA. It is trite law that no authority is available with the executive to sit over an order passed by a court of law having jurisdiction to decide the dispute. However, considering the submission of the Learned ASC appearing for the Respondents that thirty days time may be allowed to the Respondents to consider and dispose of the representation of the applicant in compliance of the earlier order of this Tribunal and report compliance, without going to the merit

2

9 of the matter, this OA is disposed of at this admission stage granting liberty to the Respondents to report compliance of the disposal of the representation of the Applicant as directed in earlier OA failing which list this matter just after 30 days for taking further action in the matter.

3. Send copies of this order along with OA to the Respondent No.2 for compliance at the cost of the applicant for which Learned Counsel for the Applicant undertakes to deposit the Postal requisite within two days hence. Free copies of this order be given to Learned Counsel for both sides.


(C.R. Mohapatra)
Member (Admn.)