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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 155 OF 2009
CUTTACK, THIS THE 18th DAY OF February, 2010


Prafulla Kumar Barik..... 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 ?


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

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 155 OF 2009
CUTTACK, THIS THE 13th DAY OF February, 2010

CORAM :

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

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Sri Prafulla Kumar Barik, aged about 52 years, S/o-Late Ganesh Barik, Qr. No. Type-II-532, New A.G. Colony, P.O./P.S.-Nayapalli, Bhubaneswar at present working as Senior Accountant, Office of Accountant General (A&E), Orissa, Bhubaneswar, Dist-Khurda, Orissa.

.....Applicant

Advocate(s) for the Applicant- M/s K.C.Kanungo, S.Pattnaik.

VERSUS

Union of India, represented through

1. Accountant General (A&E), Orissa, Bhubaneswar, Dist-Khurda, Orissa.
2. The Accountant General (A&E), Orissa, Puri Branch, Puri, Orissa.

State of Orissa represented through

3. Principal Secretary, Dept. of Water Resources, Orissa Secretariat, Bhubaneswar, Dist-Khurda, Orissa.
4. Chief Engineer, Project Planning and Formulation, Sechsadan, Bhubaneswar, Dist-Khurda, Orissa.
5. Superintending Engineer, Northern Investigating Circle, At/P.O.-Burla, Dist-Sambalpur, Orissa.

..... Respondents

Advocates for the Respondents – Mr. U.B.Mohapatra (For R-1&2),
Mr. A.K.Bose (For R-3 to 5)

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ORDER

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

The applicant is a Sr. Accountant in the Office of Accountant General (A&E), Orissa, Bhubaneswar. He was on deputation as Divisional Accountant in the Office of Executive Engineer, Bolangir Investigation Division under the Govt. of Orissa w.e.f. 01.03.2005. Consequent to the abolition of Bolangir Investigation Division, he was repatriated to his parent office on 26.11.2007. The grievance of the applicant is that he has not been paid the arrears of pay and allowance for the period from 1.4.2007 to 26.11.2007, the transit pay till 02.12.2007 and deputation allowance for the period 1.3.2005 to 2.12.2007. According to the applicant, the total outstanding dues to be paid by the Respondents is Rs. 1,73,986/-. Having found no favourable response from the Respondents, the applicant has filed the present Original Application seeking the following reliefs:

“...to direct the State Respondents (3,4 and 5) to make the arrear salary and other allowances including transit pay for the period Dt. 01.04.2007 to Dt. 02.12.2007 and the deputation allowances from Dt. 01.03.2005 to Dt. 02.12.2007, transport allowance to Rs. 4000/- and bonus for the year 2006-2007 amounting to Rs. 3500/-, the total amount which will be approximately

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Rs. 1,73,986/- (Rupees one lakh seventy three thousand nine hundred eighty six) with penal interest till actual payment is made for the ends of justice.

AND

Be further pleased to direct the State Respondents to pay the interest on G.P.F. for the period Dt. 01.04.2007 to Dt. 02.12.2007 which amounts to around Rs. 3606.00 (Rupees three thousand six hundred six) for the ends of justice.

AND

Be further pleased to direct the Respondents to pay an amount of Rs. 30,000.00 (Rupees thirty thousand) for default of the applicant to repay the bank and cooperative loan due to non-payment of salary for the period Dt. 01.04.2007 to Dt. 02.12.2007 in the interest of justice.

AND

Be further pleased to hold that the calculation figure of Rs. 1,26,975.00 (Rupees one lakh twenty six thousand nine hundred seventy five) in Annexure-A/4 is wrong and the same is to be corrected in terms of Annexure-A/6."

Applicant has also prayed for an interim relief for payment of Rs. 1,25,000/-, which is stated to have been admitted by the Respondents in Annexure-A/4.

2. While admitting the Original Application, this Tribunal vide order dated 15.05.2009 had directed Respondent Nos. 3 to 5 to pay an amount of Rs. 50,000/- within a certain time frame and this amount has already been paid by the

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Respondents. However, the claim of the applicant for the balance amount still remains.

3. The Respondents, while filing counter, have pointed out that the applicant was on deputation in the office of Executive Engineer, Bolangir Investigation Division w.e.f. 1.3.2005 and he never worked in the office of Respondent No.5, and hence, he should have made the Executive Engineer as party, who was his disbursing authority relating to his salary etc. It has been further contended by the Respondents that the Bolangir Investigation Division was abolished vide order dated 30.3.2007 issued by the Department of Water Resources, Govt. of Orissa and the staff were redeployed in the newly created Anandpur Barrage Division with headquarters at Salapada. The applicant being the only Divisional Accountant was required to join immediately in the newly created Anandpur Barrage Division on redeployment. Accountant General (A&E), Orissa was informed of this development vide the Govt. Order but the A.G. did not take any action to revert back the applicant to his parent department nor the applicant joined in the newly created Anandpur Barrage Division. The records pertaining to the Executive Engineer, Bolangir Investigation Division were transferred and kept in charge of the Executive Engineer, Titilagarh Irrigation Division due to the closure of the

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establishment. It is further contended in the counter that the applicant never claimed the deputation allowance during the period of his incumbency in the Bolangir Investigation Division. Due to the closure of the Bolangir Investigation Division and the Govt. order relating to the redeployment of the staff in the Anandpur Barrage Division, no budgetary provision for the erstwhile Bolangir Investigation Division could be made and the applicant also did not perform his duties in the newly created division.

4. The applicant has also filed rejoinder more or less reiterating the points already urged in the Original Application.

5. Heard Mr. K.C.Kanungo, Ld. Counsel for the applicant and Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel for the Respondents and perused the materials placed on record.

6. It reveals from the records that the applicant, who was working in the Bolangir Investigation Division on deputation basis was relieved for reporting in the office of Accountant General(A&E) Orissa, Bhubaneswar vide Office Order No. 20/07-08 dated 22.11.2007 by the Executive Engineer, Bolangir Investigation Division, Bolangir. This would show that the office of the Executive Engineer, Bolangir Investigation Division was in existence till this date, i.e. till 22.11.2007. Annexure-A/2 will show that the applicant reported


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in the Accountant General Office on 03.12.2007. It also reveals that the arrears amount could not be disbursed due to the non-allocation of budgetary provision w.e.f. 1.4.2007. It is also confirmed by the Superintending Engineer, Northern Investigation Circle, Burla that the applicant was not paid salary for the period from 1.4.2007 to 26.11.2007. In Annexure-A/4 of the O.A., it has been conceded by Respondent No.5 that an amount of Rs. 1,26,975/- was required to clear the arrear pay bill of the applicant and therein he has sought necessary allocation to clear up the dues of the applicant.

7. From the above conspectus of facts, there cannot be any doubt that the applicant was on deputation from the Accountant General's office to the Bolangir Investigation Division under the Department of Water Resources from 1.3.2005 to 26.11.2007 and during this period he has worked in the Bolangir Investigation Division as inspite of the orders of State Govt. the office had not physically closed down and there was no order issued by the concerned authorities for his relieving/posting on redeployment in the Anandpur Barrage Division. Hence, the applicant cannot be found at fault for having not joined in the newly created division. Respondents have nowhere disputed the fact of deputation status of the applicant. Hence, he is entitled for deputation allowance as per

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the rules. As regards the exact amount of payment as indicated by the applicant at Annexure-A/6 to the O.A., this would require necessary verification, which needs to be carried out by the paying authority.

8. In view of what has been stated above, Respondent No.3 and 5 are directed to arrange payment of the dues of the applicant after necessary verification of the due drawn statement filed by the applicant at Annexure-A/6 to the O.A. This exercise shall be completed within a period of 60 days from the date of receipt of a copy of this order. And, final payment after adjusting the payment of Rs. 50,000/-, which was paid in terms of the order of this Tribunal, shall be made within 30 days thereafter.

9. With the above observation and direction, this O.A. is allowed to the extent indicated above. There shall be no order as to costs.


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

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