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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.116 OF 2011

Cuttack this the 9th day of March, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

AND

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

...

Avimanyu Nayak...Applicant

-VERSUS-

Union of India & Ors. Respondents

ORDER

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER:

1. Applicant, at present working as Assistant Accounts Office (BD), in the Office of the Chief Post Master General, Orissa Circle, Bhubaneswar has filed this Original Application seeking the following relief:

- i) To quash the orders of the Respondent No.3 dated 23.2.2011 (Annexure-A/7 regarding withdrawal of the financial upgradation granted to the applicant w.e.f. 1.9.2008 onwards for being illegal, irregular and contrary to the provision of the MACP Scheme.
- ii) To order that the reduction of the pay of the applicant w.e.f. 1.9.2008 was illegal and irregular and no recovery should be made from the pay of the applicant towards the so called excess payments w.e.f. 1.9.2008 onwards.
- iii) To pass such other order(s)/direction(s) as may be deemed fit and proper in the bonafide interest of justice.

2. We have heard Shri A.K.Mohanty, learned counsel for the applicant and Shri U.B.Mohapatra, learned Senior Standing Counsel (on whom a copy of this O.A. has already been served) on the question of admission and perused the materials on record.

3. Perusal of Annexure-A/6 dated 8.7.2010 reveals that the applicant has been found suitable by the Screening Committee for grant of 2nd financial benefits under the MACP Scheme w.e.f. 1.9.2008. According to applicant, while he was in receipt

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of the said benefit w.e.f. 1.9.2008, by virtue of office order dated 23.2.2011 (Annexure-A/7), he has been declared "Not entitled for 2nd MACP", in consequence of which his pay has been reduced. According to applicant, this course of action has been resorted to by the Respondent-Department without even issuing notice to him to show cause in that behalf. The applicant is apprehensive that the ^{so called} excess amount paid to him on account of grant of 2nd MACP is likely to be recovered from his salary.

4. We have considered the submissions made by the learned counsel for the parties. The applicant, as revealed from the O.A., has ventilated his grievance before the Deputy Director (General) (PAF), New Delhi, (Respondent No.2) vide Annexure-A/8 dated 28.2.2011 seeking appropriate remedy. Since the matter is pending consideration with Respondent No.2, in the fitness of things, without expressing any opinion on the merits of the case and as agreed to by the learned counsel for the parties, we direct Respondent No.2 to consider and dispose of the pending representation of the applicant as at Annexure-A/8 and pass a reasoned and speaking order within a period of two months from the date of receipt of this order under intimation to the applicant. It is, however, made clear that until a decision as directed above is taken by Respondent No.2, recovery if any, shall not be effected from the salary of the applicant.

5. With the above observation and direction this Original Application is disposed of at the stage of admission itself.

6. Send a copy of this order along with copy of the O.A. to Respondent No.2 for compliance and free copies of this order be made over to the learned counsel for the parties.

Alka
(A.K.PATTNAIK)
JUDICIAL MEMBER

Chandra
(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER