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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NOs.303 AND 459/09**  
**CUTTACK THIS IS THE 16<sup>th</sup> DAY OF SEPT., 2010**

Suchit Das & Manoranjan Saran..... Applicants  
Vs.  
Union of India & Others..... Respondents

**FOR INSTRUCTIONS**

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?

  
**(M.R. MOHANTY)**  
**VICE-CHAIRMAN**

  
**(C. R. MOHAPATRA)**  
**ADMINISTRATIVE MEMBER**

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**CORAM:**

**HON'BLE MR. M.R. MOHANTY, VICE-CHAIRMAN  
&  
HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER**

IN O.A. NO.303/09

Suchit Das, aged about 61 years, S/O- Late P.K. Das, presently working as Chairman, Orissa Public Service Commission, 19, Dr. P.K. Parija Road, Cuttack-1. .... **Applicant**

**By the Advocate(s)** ..... M/s-J. Katikia,  
D.K. Rout, A. Mohanty.

**Vs.**

1. Union of India, represented through it's Secretary, Ministry of Finance, Department of Expenditure, New Delhi-1.
2. State of Orissa, represented by its Principal Secretary, Home Department, Orissa Secretariat, Bhubaneswar, Dist-Khurda.
3. Special Secretary to Govt. of Orissa, General Administration (Service-1) Deptt., Orissa Secretariat, Bhubaneswar, Dist-Khurda.

..... **Respondents**

**By the Advocate(s)** ..... Mr. U.B. Mohapatra, SSC (R-1)  
Mr. A.K. Bose, G.A. State (R-2 &3)

IN O.A. NO.459/09

Manoranjan Saran, aged about 60 years, S/O- Shri L. Saran, presently working as Member, Orissa Public Service Commission, 19, Dr. P.K. Parija Road, Cuttack-1. .... **Applicant**

**By the Advocate(s)** ..... M/s-J. Katikia,  
D.K. Rout, A. Mohanty.

**Vs.**

- 1 Union of India, represented through it's Secretary, Ministry of Finance, Department of Expenditure, New Delhi-1.
2. State of Orissa, represented by its Special Secretary to Govt., General Administration Department, Orissa Secretariat, Bhubaneswar, Dist-Khurda. .... **Respondents**

**By the Advocate(s)** ..... Mr. U.B. Mohapatra, SSC (R-1)  
Mr. A.K. Bose, G.A. State (R-2 &3)



ORDER

(Oral)

HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER

Since the facts and question to be decided are same and similar both the O.As are being disposed of by this common order.

2. These two Original Applications have been filed by two Applicants seeking the following relief:-

- “ i) Hold and declare that denial of extension of benefit of merger of 50% of dearness allowance with basic pay w.e.f. 01.04.04 to the applicant is violative of Articles 14,16,19, 21 and 300A of the Constitution of India and thereby
- ii) Direct/order/command the Respondents to forthwith extend the benefit of merger of 50% of dearness allowance with basic pay w.e.f. 01.04.04 to the applicant with grant of all consequential service and monetary benefits;
- iii) And, the Hon'ble Tribunal may pass any suitable/appropriate order in favour of the present applicant, in view of the facts and circumstances of the case;

3. It is the case of the Applicants that the 5<sup>th</sup> Central Pay Commission in its report dated 30.01.1997 recommended that D.A. should be converted into Dearness Pay each time the CPI increases by 50% over the base index used by the last Pay Commission. While accepting the said recommendations, the Government of India in the Ministry of Finance, Department of Expenditure, issued Office Memorandum dated 01.03.2004 stating that w.e.f. 01.04.2004 the Dearness Allowance equal to 50% basic

pay shall be merged with the basic pay and shall be shown distinctly as Dearness Pay (DP), which would be counted for the purposes, like, payment of allowances, transfer grant, retirement benefits, contribution of GPF, etc. It is also stated that the Ministry of Personnel, PG & Pension Department, in their letter dated 31.03.2004 asked all the Chief Secretaries of the State Governments and Union Territories for action in respect of members of All India Services working under their respective jurisdictions. In spite of the above order, the Government of Orissa has not yet given the benefit of the above O.M. to the present applicants. Hence, the applicants have approached this Tribunal with the prayers referred to above.

4. Heard Shri D.K. Rout, Ld. Counsel for the Applicants, Shri U.B. Mohapatra, Ld. SSC for the Union of India and Shri A.K. Bose, Ld. Government Advocate for the State of Orissa and perused the records produced along with the O.As.

5. Shri Rout, Ld. Counsel for the Applicants invited our attention to the order of this Tribunal in O.A. Nos.205 and 206 of 2008, decided on 21.04.2009, in the case of Manmohan Das & Rabindranath Padhi V. Union of India and Others, wherein similar question was considered and decided.

6. However, in the counter affidavit filed on behalf of the State Government of Orissa in O.A. No.303/2009 it has been stated that the State Government have implemented the benefit of the merger of 50% DA in case of All India Service Officers w.e.f. 01.04.2006. It is the further stand taken in the counter that since the Government of Orissa is not financially sound, the Respondent-Department is not in a position to make payments in accordance with the orders passed by the government of India. Though no separate Counter has been filed in the O.A. 459/2009, the Ld. Govt. Advocate Sri Anup Bose submitted that the principles/issues in both the O.As being the same, the State Government adopts the Counter filed in O.A. No.303/2009 also in the O.A. No.459/2009. On anxious consideration of the contentions raised by the parties and on the principles laid down by this Tribunal in O.A. Nos.557/05, 205/08 & 206/08, we are of the view that the question raised in these O.As. is no more res Integra as it is already covered by the order of this Tribunal as stated above. However, having considered the stand taken by the Respondent in the counter, and in view of the law laid down by the Hon'ble Apex Court in the cases of Union of India and others V. K.C. Sharma, 2008(2) SCC (L&S) 783 and in the case of Maharaj Krishna Bhatt and another V. State of Jammu and Kashmir, 1997 (7) SCC 721, we direct the Respondent

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No.2 to take all possible measures to make payment of the dues and/or benefits arising out of the merger of 50% DA with pay w.e.f. 01.04.2004 within a period of four months from the date of receipt of the copy of this order. It is however, made clear that if the amount as due and admissible is not paid to the Applicants within the time indicated above, the amount to be so paid would bear interest at the rate of 8% per annum from the date of expiry of the stipulated period till the date of its actual payment to the Applicants.

7. With the above observation and direction, both the Original Applications are disposed of. No costs.

*Parbat*  
(M.R. MOHANTY)  
VICE-CHAIRMAN

*Parbat*  
(C. R. MOHAPATRA)  
ADMINISTRATIVE MEMBER