

19

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 353 of 2009

Cuttack, this the 24th day of October, 2011

Sri Antaryami Mallick Applicant

-v-

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?

(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

(A.K.PATNAIK)
JUDICIAL MEMBER

BKS

20

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.353 OF 2009

Cuttack this the 24th day of October, 2011

CORAM:

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

AND

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

Sri Antaryami Mallick, aged about 44 years, S/o. late Anadi Charan Mallick, permanent resident of Vill-Kumbhari, PO-Kalio, PS-BALIKUDA, Dist-Jagatsinghpur, at present working as Accountant, Office of Regional Director, Regional Centre of Organic Firming, Plot No.A/123, Sahidnagar, PO/PS-Sahidnaar, Bhubaneswar-7, Dist-Khurda, Orissa

...Applicant

By the Advocates:M/s.K.C.Kanungo & S.K.Pattnaik

-VERSUS-

1. Union of India represented through Secretary to Govt. of India, Ministry of Agriculture, (Dept. of Agriculture & Cooperation), Krishi Bhawan, New Delhi.
2. Director, National Centre of Organic Firming, (Formerly National Bio-Fertilizer Development Centre), 204-B Wing, CGO Complex-II, Kamala Nehru Nagar, Ghaziabad-201002
3. Regional Director, Regional Centre of Organic Firming, A-153, Sahidnagar, PO/PS/Sahidnagar, Bhubaneswar-7, Dist-Khurda, Orissa

...Respondents

By the Advocates:Mr.U.B.Mohapatra,SSC

ORDER

A.K.PATNAIK, JUDICIAL MEMBER: Applicant, at present working as Accountant under the Respondent-Department, has moved this Tribunal challenging the legality of the order dated 11.11.2009 at Annexure-A-11/1 (not annexed to the O.A.), by virtue of which his claim for revised pay scale in the Pay Band-2

[Signature]

(Res.9300/- - Rs.34800/-) with grade pay of Rs.4200/- with effect from 01.01.2006 has been turned down. In the circumstances, the applicant has sought for the following relief.

“...to direct the Respondent No.1 & 2 extent the revised pay scale in the Pay Band-2(Res.9300/- - Rs.34800/-) with grade pay of Rs.4200/- with effect from 01.01.2006 with differential arrears till the actual payment is made with interest for the ends of justice”.

2. The applicant is at present working as Accountant under the Respondent-Organization. His grievance is that although the recommendations of the 6th Central Pay Commission in respect of Accountant with special reference to unorganized Accountant cadre was implemented by the Government of India vide Annexure-A/1, but the benefit arising out of that was not extended to him despite representations made to that effect. To put it in right perspective, what the applicant claims is that before coming into effect the recommendations of 6th CPC, he was in receipt of Rs.4500-Rs.7000/- in the pre-revised scale meant for the Accountant. The 6th CPC, in Para-3.8.5. of Annexure-A/1 recommended as under:

“The existing relativity between the accounts related posts outside organized account cadre and ministerial posts will be maintained and the accounts staff belonging to unorganized accounts cadres shall be extended corresponding replacement pay band and grade pay”.

1/2a

3. Based on this, the applicant has submitted that pre-revised scales of Rs.4500-7000/- and Rs.5000-8000/- were clubbed together which corresponds to revised pay scale of Rs.6500-Rs.10500/- under Pay Band-2. The replacement scale of Rs.6500-Rs.10500/- has been revised to Rs.9300 - Rs.34800/- with grade pay of Rs.4200/-. According to applicant, although the above upgraded and revised pay scale was extended to the Head Clerk/assistants/Steno Grade-II/equivalent, the same was not extended to him, instead he is in receipt of the revised scale of Rs.5200-Rs.20200/- with Grade Pay Rs.2800/-. Being aggrieved the applicant went on preferring representation after representation, which having been turned down vide Annexure-R/3 dated 11.11.2009, the applicant has moved this Tribunal seeking the relief as referred to above.

4. Respondent-Organization have filed their counter opposing the prayer of the applicant. Although they have not repudiated the basic rules regarding existing relativity between the accounts related posts outside organized accounts cadre and ministerial posts, relied on by the applicant and as quoted above, but they have stoutly refuted the plea of the applicant regarding merger of pay scales. In this connection, the Respondents, basing on Annexure-R/2 have submitted that

the merger of pay scales as submitted by the applicant relates to staff working in organizations outside the Secretariat which is distinct from Accounts Staff. According to Respondents, the 6th CPC order has provided explanation for Accounts Staff belonging to unorganized Accounts cadres at Section II(III) vide supra. According to Respondents, the representations of the applicant were forwarded by the Respondent No.2 to the Department of Agriculture & Cooperation (Res.No.1) for resolving the grievance. The relevant portion of reply received in this regard vide letter dated 11.11.2009(Annexure-R/3), which is impugned in this O.A. reads thus:

“...the proposal for granting to higher Pay-Band to the Accountant of NCOF/RCOF had been sent to the Department of Expenditure, Ministry of Finance for their advice. The Department of Expenditure has considered the proposal and intimated that as per Part B, Section II, Sl.No.III of CCS(RP) rule, 2008, accounts staff belonging to unorganized accounts cadre have been extended the corresponding replacement Pay-Band and grade pay in the revised pay structure. Accordingly, it is not feasible to agree to the instant proposal of the Department of Agriculture & Cooperation. The post of Accountant in NCOF, Ghaziabad may therefore, be placed in the revised pay structure grade pay of Rs.2800/- in the Pay Band OB-1”.

W.A.C

5. With the above submissions the Respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

6. We have heard Shri K.C.Kanungo, learned counsel for the applicant and Shri U.B.Mohapatra, learned SSC appearing on behalf of the Respondents, perused the materials on record and given our anxious considerations to the arguments advanced at the Bar.

7. From the pleadings of the parties, the following points need determination.

- i) Whether the representations submitted by the applicant from time to time ventilating his grievance have been considered in its proper perspective.
- ii) Whether the post of Accountant, as held by the applicant is an unorganized accounts cadre.
- iii) Whether the existing relativity between the accounts related posts outside organized account cadre and ministerial posts has been maintained.

8. We have gone through the representations of the applicant vide Annexures-A/9 and A/10 duly forwarded by the competent authority to Respondent No.2. The vital importance of the matter as revealed therefrom is that although two incumbents of Accountant , i.e., one at Kolkata and the other at Faridabad, their old pay scale being Rs.4500-7000/- as that of the applicant in the same Department have been granted Grade Pay Rs.4200/-

W.A.

, the applicant has not been so granted and as such, there has been a glaring discrimination meted out to him.

9. Apart from the above, while dealing with the representation notwithstanding the fact that the applicant being an account staff belonging to unorganized accounts cadre in respect of which corresponding replacement Pay-Band and grade pay in the revised structure has been extended, the findings that the post of Accountant in NOCOF, Ghaziabad may be placed in the revised pay structure grade pay of Rs.2800/- in the Pay band PB-1 is revelation of non application of mind. In other words, what we mean to say is that accounts staff belonging to unorganized accounts cadre and outside the accounts cadre which have the same connotation should not have been construed indifferently in utter disregard to Section-II(II) Para 3.1.14 read with Section-II(III) Para 3.8.5.

10. Viewed from this angle, it cannot be said that the representations of the applicant have been considered and disposed of in its proper perspective.

11. In the above backdrop, we would like to note that while forwarding representations of the applicant to Respondent No. 1 vide Annexures-A/8 and A/11, Respondent No.2 categorically indicated as under:

✓ All

26 -7

“Further as per the latest recommendations of 6th CPC under para 3.1.14 of Section II(II), existing posts of Head Clerk/Assistants/Steno Grade-II/equivalent in the pre-revised pay scale of Rs.4500-7000 & Rs.5000-8000/- are to be placed in the revised pay scale in the Pay Band-2 (Rs.9300-34800) with Grade Pay of Rs.4200/-. As the post of Accountant in NCOF/RCOFs is an un-organized accounts cadre outside the Secretariat, therefore, as per Section-II(III) para 3.8.5, the same has to be placed in the above mentioned revised Pay Band-2 and Grade Pay”.

12. From the above, though there has been delicate hint that the post of Accountant held by the applicant is an un-organized one or outside the accounts cadre, as the case may be, yet to be more fortified, we would like to refer to Section-II(III)/Para-3.8.5 of Annexure-R/3, as quoted earlier in order to turn inside out. The provisions enshrined therein are in particular meant for Accounts Staff Belonging to un-organized accounts cadre. The introductory sentence, i.e., **the existing relativity between the accounts related posts outside organized accounts cadre and ministerial posts** refers to a circumstance before coming into force the recommendations of the 6th CPC. Section-II(II)/Para 3.1.14 refers to office staff working in Organizations outside the Secretariat. **Head Clerk/Assistants/Steno Gr.II/equivalent fall under this banner, meaning thereby, Organizations outside the Secretariat** in so far as the present case is concerned. There is no dispute that the posts of Head

All

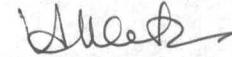
Clerk/Assistants/Steno Gr.II/equivant as referred to in Para 3.1.14 above, are ministerial posts, carrying the old pay scales Rs.4500-7000 and Rs.5000-8000/- have been allowed PB-2 with Grade Pay Rs.4200/-. It is also an admitted position that the applicant was in receipt of Rs.4500-7000/- prior to 6th CPC. Viewed from this angle, if the applicant was not granted PB-2 with G.P. Rs.4200/- in line Head Clerk/Assistants/Steno Gr.II/equivalent, it cannot be said that the existing relativity between the accounts related posts outside organized accounts cadre and ministerial posts has properly been maintained and in that event, the recommendations of the 6th CPC cannot be said to have been implemented in letter and spirit. In this view of the matter, we would answer the point in issue as at (ii) that the applicant belongs to unorganized accounts cadre and in so far as issue as at (iii) is concerned, the existing relativity between the accounts related posts outside organized accounts cadre and ministerial posts has not been properly maintained.

13. Having answered the points in issue as above, we have no hesitation to quash the impugned order dated 11.11.2009 (Annexure-R/3) being non est in the eye of law. In the circumstances, we direct the Respondent-Organization to reconsider the matter by themselves in the light of what has been discussed above and put up a concrete and definite

Verd

proposal before the Ministry of Finance, for the purpose of allowing the applicant scale of pay in PB-2 with G.P. Rs.4200/-, to which he is legally entitled to. This exercise shall be completed within a period of 120 days from the date of receipt of this order. In the result, the O.A. is disposed of as above. No costs.


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K.PATNAIK)
JUDICIAL MEMBER

BKS