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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.388 of 2009

Cuttack this the 7th day of February, 2013

CORAM

HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)



1. Subhransu Sekhkar Sahoo,
Aged about 42 years,
S/o.Late Gouiranga Ch. Sahoo,
Plot No.561,
Sahidnagar,
Bhubaneswar-751 007,
Dist. Khurda.
2. Gopal Chandra Behera,
Aged about 39 years,
S/o.Late Banchhanidhi Behera,
Pedapur,
Banki,
Cuttack.
3. Suryakanta Barik,
Aged about 30 years,
S/o.Laxmikanta Barik,
Plot No. 1381/51,
Phase-2,
Bhimtangi Housing Board Colony,
Bhubaneswar-751 020.

Applicants

(By Advocates:M/s.B.Routray,D.K.Mohapatra,D.Routray,S.Das,S.Jena)

-VERSUS-

UNION OF INDIA represented through -

1. Secretary,
Department of AYUSH,
Ministry of Health & Family Welfare,
Government of India,
IRCS Building,
Red Cross Road,
New Delhi-110 001.
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2. Central Council for Research in Ayurveda & Siddha,
Represented through Director General
J.L.N.Bharatiya Chikitsa Avum,
Homeopathy Anusandhan Bhawan,
61-65, Industrial Area,
Opposite 'D' Block Janakpuri,
New Delhi.
3. Assistant Director I/C,
Central Research Institute (Ay),
Unit-1,
Bhubaneswar-751 009,
Dist. Khurda.

...Respondents

(By Advocate: Mr.S.K.Patra)

O R D E R

(Oral)

MR.A.K.PATNAIK, MEMBER(I):

The Applicants who are continuing as General Duty Assistant (in short 'GDA) in the Central Research Institute Ayus Veda/under Respondent No.3 have filed this Original Application on 25th August, 2009, *inter alia* raising their grievance that though they were eligible and entitled to be promoted to the post of UDC the Respondents issued the order of promotion at Annexure-A/3 dated 19th June, 2009 promoting their juniors to the post of UDC. Further grievance of the Applicants is that they have made appeal at Annexure-A/4 (series) against their non promotion but no order was passed by the Respondents on the same. Hence in this OA their prayer is as under:

- "i) The Original Application be admitted;
- ii) Records be called for;
- iii) The Respondents particularly Respondent Nos.2 and 3 be directed to give promotion to the present applicants with effect from 19.6.2009 to the post of UDC at their present place of working i.e. under Respondent No.3 as has been done in case of their




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juniors pursuant to office order No. 1062 of 2009 dated 19.06.2009 under Annexure-A/3 within a reasonable time to be stipulated by this Hon'ble Tribunal and to give all consequential service benefits to the applicants similar to their juniors who have been given promotion with effect from 19.6.2009 vide office order No.1062 of 2009 dated 19.6.2009 under Annexure-A/3;

2. During pendency of this OA the Respondents disposed of the appeal of the Applicants and intimated the same in letter dated 13.10.2009. Hence by filing MA No. 43 of 2010 on 25th January, 2010 the Applicants seek to bring the letter dated 13.10.2009 for consideration in this OA. When the said MA was listed for consideration, on the prayer of the Learned Counsel appearing for the Respondents he was allowed some time to submit the objection/reply to the MA whereas the Applicants suo motto filed the consolidated OA adding the following prayer in the relief portion of the OA:


- iv) The Office Memorandum dated 30.10.2009 in rejecting the representations of the applicants under Annexure-A/7 may be quashed and further the circular dated 04.01.2010 giving promotion to the applicants and asking them to exercise their option to be posted to the Headquarter office of the Council at New Delhi as UD clerk vide Annexure-A/8 may be modified and direction be made to give promotion to the applicants at Bhubaneswar unit of Central Research Institute where they are at present working."

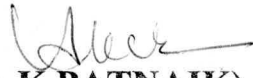
3. It is seen that although the applicants seek to quash the Annexure-A/7 & A/8 no such letter/order has been annexed to the consolidated OA. While giving consideration to the above aspects of the matter we have looked into the entire case of the Applicants vis-à-vis the relief sought by them in the OA. Though Learned Counsel for the



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Applicants has sought time to annex two letters as Annexure-A/7 & A/8 the relief claimed by the Applicants cannot be allowed for the reason that according to the Respondents all the posts of UDC have been filled up and despite the above, the applicants have not sought to quash the promotion order of their so called juniors nor the so called juniors have been made as party to this OA. Even if it is held that the applicants have been unjustly denied promotion, consequential direction for consideration/reconsideration of their case cannot be ordered unless the promotion orders of their so called juniors are quashed which is not possible in absence of the relief and making the persons who would be affected as party in this OA. For the discussions made above, we find no merit in this OA. This OA is accordingly dismissed. No costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judl.)