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OA No.400 of 2009
Ashutosh Mishra Applicant
Versus
UOI & Ors. Respondents

1. Order dated 1st September, 2009.

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

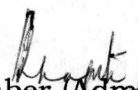
Heard Mr. B.S.Tripathy, Learned Counsel appearing
for the Applicant and Mr. S.B.Jena, Learned Additional
Standing Counsel for the Union of India appearing on notice for
the Respondents and perused the materials placed on record. In
this Original Application the applicant challenges the order
under Annexure-A/6 dated 14th August, 2009 in which he is
subjected to reduction of pay consequent upon wrong fixation of
pay while implementing the order of the Government made on
the recommendation of the 6th CPC w.e.f. 01.01.2006.
Applicant holds the post of Assistant Registrar in the DRT,
Cuttack under the Ministry of Finance Department, on
deputation basis. His prayer is to quash Annexure-A/6 and to
direct the Respondents to restore his pay and allowance what he
was getting prior to the order under Annexure-A/6. It is his case
that after receipt the order under Annexure-A/6, he has made
representation to Respondent No.2 on 25th August, 2009 and he
apprehends that before taking any decision on the said
representation the order under Annexure-A/6 may take effect.
He also apprehends that pursuant to Annexure-A/6 there is
every possibility of recovery of the payment already made to
him. Therefore, as an ad interim measure, the Applicant also
sought stay of the order under Annexure-A/6.

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2. It is seen from the record that the applicant made representation to Respondent No.1 on 25th August, 2009 and approached this Tribunal in the present OA on 28.08.2009. Therefore, in my opinion this OA is premature one. However, it has been submitted by Learned Counsel for the Applicant that unless there shall be an interim order of stay at least till disposal of representation there is every possibility of recovery consequent to the order under Annexure-A/6 and as such, the Respondents may be directed to dispose of the representation and till then there should not be any recovery.

3. In the said premises as agreed to by Learned Counsel for both sides, without expressing any opinion on the merit of the matter, **this Original Application is disposed of at this admission stage** by directing Respondent No.1 to consider the case of the applicant as outlined in Annexure-A/8 regarding the appropriate fixation of pay in the present post held by him on deputation basis in terms of the relevant CCS (RP) Rules, 2008 and pass a reasoned order within a period of 45 days from the date of receipt of this order. Till a decision is taken on the said representation of the Applicant there shall be no recovery, if any, pursuant to the order under Annexure-A/6.

Learned Counsel for the Applicant seeks to serve copies of this order along with OA on the Respondents by post at his cost. Prayer allowed.


Member (Admn.)