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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.411 of 2009

Cuttack, this the 10th day of March, 2011

Rajat Kumar Pati Applicant

-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

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

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

(Signature)
(C. R. MOHAPATRA)
Member (Admn.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 411 of 2009

Cuttack, this the 10th day of March, 2011

CORAM:

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

AND

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

Rajat Kumar Pati, aged about 46 years, Son of Janmajaya Pati, at present Laboratory Assistant, CPDO(ER), Bhubaneswar, Khurda.

.....Applicant

By legal practitioner: M/s.D.P.Dhalsamant,D.K.Mallik,N.Rout, Counsel

-Versus-

1. Union of India represented through its Secretary, Ministry of Agriculture, Department of Animal Husbandry and Dairying and Fisheries, Krishi Bhawan, New Delhi-110 001.
2. Deputy Secretary (Admn.3), Government of India, Ministry of Agriculture, Department of A.H. Dairing & Fisheries, Krishi Bhawan, New Delhi-110 001.
3. Director, Central Poultry Development Organization (ER), Government of India, Nayapalli, Bhubaneswar, Khurda-751 012.

....Respondents

By legal practitioner: Mr.S.B.Jena,ASC

ORDER

MR. C.R.MOHAPATRA, MEMBER (ADMN.):

The Applicant has been working as Laboratory Assistant under the Regional Feed Analytical Laboratory (RFAL) at Bhubaneswar in the State of Odisha. The Laboratory Assistant of RFAL as well as the Laboratory Assistant of Central Poultry Training Institute (CPTI) is under one Department i.e. Department of Animal Husbandry and Dairying in the Ministry of Agriculture. The qualification for both the posts is not only same but both are carrying the same scale of pay in the pre revised scale which came into effect on the basis of the recommendation of the 4th pay CPC. In the 5th CPC, the pay of the Laboratory Assistant, CPTI was upgraded to Rs.5000-8000/- whereas the scale of pay of Laboratory

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Assistant of RFAL in which post the applicant has been continuing was fixed at Rs.4000-6000/-. On agitation, the matter was referred to the Pay Anomaly Committee set to look to the pay anomaly by the Department of Animal Husbandry. Meanwhile, some of the aggrieved Laboratory Assistant of CPDO, Chandigarh, approached the Chandigarh Bench of the Tribunal praying for grant of the revised scale of Rs.5000-8000/- to them. The Chandigarh Bench of the Tribunal, after considering all aspects of the matter, directed grant of the revised pay of Rs.5000-8000/- to the Laboratory Assistant of CPDO. By filing representation, the Applicant requested for extension of the scale of pay of Rs.5000-8000/- to the Applicant pursuant to the order of the Chandigarh Bench of the Tribunal. Respondents considered the representation but rejected and communicated the reason of such rejection to the applicant in letter under Annexure-A/13 dated 24/25th July, 2009. It reads as under:

“The matter has been examined in this Department and it is observed that as per extant policy, only where the up-gradation/revision of pay has been based on specific recommendations of 5th CPC, the benefit can be considered retrospectively (i.e.w.e.f. 01-01-1996). However, the benefit to Laboratory Assistant in CPDO, Chandigarh was given as a result of a Court Judgment. Hence the instant proposal is not agreed to.”

2. Hence by filing the present Original Application, the Applicant prays to quash the order under Annexure-A/13 dated 24/25th July, 2009 and direction be issued to the Respondents to grant him the up-graded/revised pay of Rs.5000-8000/- with effect from 01-01-1996. The contention of the Applicant is that by rejecting the representation the Respondents have allowed discrimination and injustice to perpetuate in

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the matter of pay scale as he has been deprived of the upgraded scale to Rs.5000-8000/-.

3. Respondents filed their counter in which it has been stated that the scale of pay of Laboratory Assistants working in different places under CPTI, except Bangalore remained in the pay scale of Rs.4000-6000/-. Therefore, the Laboratory Assistants working in other places represented for enhancement of their scale of pay to that of Rs.5000-8000/-. The matter was referred to the Ministry of Finance, Department of Expenditure. The Department of Expenditure allowed the pay scale of Rs.5000-8000/- vide letter under Annexure-R/6. Accordingly, the administrative Ministry issued order in Annexure-R/7 dated 23.09.2005 extending the benefit of the higher scale to all the Laboratory Assistants working under CPTI w.e.f. 16.09.2005. Again representations were submitted by some of the Laboratory Assistants working under CPTI for grant of the said benefit w.e.f. 1.1.1996 as has been granted to the Laboratory Assistants working under RFAL. The matter was referred to the Ministry of Finance, Department of Expenditure. But the Ministry of Finance vide letter under Annexure-R/8 dated 29.8.2006 did not agree with the proposal for extension of the benefit w.e.f. 1.1.1996. As regards the orders of the Chandigarh Bench of the Tribunal is concerned it is the contention of the Respondents that challenging the order of the Chandigarh Bench the Respondent-Department filed CWP No. 6306 of 2008 before the Hon'ble High Court of Punjab and Harayana at Chandigarh wherein the Hon'bel High Court upheld the order of the


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Chandigarh Bench of the Tribunal but in so far as payment of the arrear differential amount is concerned it was held that the applicants therein shall be entitled to fixation of pay in the scale of Rs.5000-8000/- w.e.f. 1.1.1996 notionally but the arrears in such pay scale shall be paid to the applicant from three years prior to filing of the OA before the Tribunal. Accordingly, Respondents have prayed for dismissal of the OA.

4. Heard the rival submission of the parties and perused the materials placed on record. There is no necessity to record all the arguments advanced by the parties as admittedly Respondents extended the upgraded scale of pay to the applicant but instead of 1.1.1996 it was made effective from a later date i.e. w.e.f. 16.09.2005. That the factual matrix of the case before the Chandigarh Bench and the present case is the same, is not in dispute. Hence in pursuance of the orders of the Chandigarh Bench and modified by the Hon'ble Punjab and Harayana High Court, referred to above, we hold that the applicant is entitled to the scale of pay of Rs.5000-8000/- w.e.f. 01-01-1996 notionally and would be entitled to the differential arrear salary in the grade of Rs.5000-8000/- for the period^{of} three years prior to 16.09.2005 and the amount shall be calculated and paid to the Applicant within a period of 90(ninety) days from the date of receipt of copy of this order.

5. In the result, this OA stands allowed to the extent stated above. No costs.


(A.K.PATNAIK)
MEMBER(JUDL.)


(C.R.MOHAPATRA)
MEMBER (ADMN.)