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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

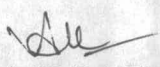
OA No. 651 of 2009


Cuttack, this the 03rd day of January, 2012

Gati Krushna Buda & Anrs. Applicants
-Versus-
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? ☒
2. Whether it be circulated to the PB New Delhi for report? ☒


(A.K.PATNAIK)
Member(Judicial)


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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No. 651 of 2009

Cuttack, this the 03rd day of January, 2012

CORAM:

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

And

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

1. Sri Gati Krushna Buda, aged about 54 years, Son of Biranchi Buda, At-Quarter No. 28, Type-III, Survey of India Residential Colony, PO. RRL, PS-Chandraekharpur, Bhubaneswar-13, Dist. Khurda.
2. Brajabandhu Rout, aged about 56 years, Son of Banchhanidhi Rout, At-Quarter No.Type III, 54 Survey of India Colony, PO. RRL, PS Chandrasekharpur, Bhubaneswar-13, Dist. Khurda.
3. Sri Khira Sagar Meher, aged about 53 years, Son of Sri Sudarsan Meher, At-Quarter No.Type III, 48, Survey of India Colony, Po.RRL, PS. Chandrasekharpur, Bhubaneswar-13, Dist. Khurda.
4. Sri Rama Chandra Dash, Aged about 54 years, Son of Late Jadu Mani Das, Plot No.2986, Mahavirgarh Lane, Near Garage Chhak, Po.Old Town, Ps.Lingaraj, Bhubaneswar.
5. Padmanav Mansingh, aged about 53 years, Son of Late Bhimsen Mansingh, At. Quarter No.Type III, 32, Survey of India Colony, Po.RRL, PS, Chandrasekharpur, Bhubaneswar-13, Dist. Khurda.
6. Kasinath Pradhan, aged about 53 years, Son of Late Uchhab Pradhan, At.Quarter No.E1/32, Chandrasekharpur, BDA Colony, Bhubaneswar-16, Dist. Khurda.
7. Sri Krishna Chandra Sahu, aged about 50 years, Son of Late Trinath Sahu, House No. VII, M/84, Sailashree Vihar, Po.Chandrasekharpur, Bhubaneswar.

All the Applicants are serving as the Survey Assistants, Survey of India (OGDC), Survey Bhawan, Po.RRL, Ps. Chandrasekharpur, Bhubaneswar, Dist. Khurda.

....Applicants

By legal practitioner: M/s.P.Acharya, B.Bhadra,
B.Jena, Counsel.

-Versus-

1. Union of India represented through the Secretary, Ministry of Science and Technology, Department of Science and Technology, Technology Bhawan, New Mehrauli Road, New Delhi-110 016.
2. The Surveyor General of India, Survey of India, Hathibarkala Estate, Post Box No.37, Dehradun, Uttarakhand.
3. Secretary to the Government of India, Department of Expenditure, Ministry of Finance, New Delhi.

....Respondents

By legal practitioner: Mr. ~~S. Borkar~~ ASC

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ORDER

Per-C.R.Mohapatra,Member(A):

Seven Applicants who are working as Survey Assistants in the Survey of India (OGDC), Survey Bhawan, RRL, Chandrasekharpur, Bhubaneswar, Dist. Khurda/Odisha have approached this Tribunal in the present Original Application praying to quash the order of rejection of their prayer under Annexure-A/3 dated 31.12.2008 and to direct the Respondents 1 to 3 to extend them the revised scale of pay of Rs.5500-9000/- which was allowed to the Surveyors w.e.f. 01-01-1996. They have also sought



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direction to the Respondents to grant them the corresponding revised pay scale of 6th CPC w.e.f. 1.1.2006 and all other consequential benefits.

2. The Respondents contest the case of the Applicants mainly on the ground that this being a matter of grant of particular scale of pay falls within the domain of the Government and when the Government, on acceptance of the recommendations of the Commission constituted for the above purpose, had recommended particular scale of pay, there is hardly any scope for this Tribunal to interfere in the matter. In this connection by relaying on the several decisions of the Hon'ble Apex Court, Respondents have prayed for dismissal of this to which the Applicants have also filed rejoinder.

3. By drawing our attention to the order dated 4th April, 2007 in OA No. 747 of 2006 (Sundaram Balasubramanyam and Anr V UOI and others) of the Madras Bench of the Tribunal, it was contended by the Learned Counsel for the Applicants that the 5th CPC granted equal pay scale of Rs.5000-8000/- to the Survey Assistants and Surveyors. Pay Anomaly Committee recommended

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grant of higher scale of pay of Rs.5500-9000/- to both grades which was not accepted by the Government. The Surveyors approached the Madras Bench of the Tribunal in OA No. 747 of 2006. The Madras Bench of the Tribunal disposed of the matter on 4.5.2007 with direction to the Respondents to take a decision relating to the pay scale of Officer Surveyors on the basis of the V CPC and take a decision in the matter within a period of two months. In compliance of the aforesaid order of the Madras Bench, the Government of India in Memorandum dated 27.8.2007 [Annexure-2] granted the pay scale of Rs.5500-9000/- to the Surveyors in the establishment of Survey of India. His contention was that after extension of the pay scale of Rs.5500-9000/- to the Surveyors a batch of OAs were filed by Survey Assistants in different Benches of the Tribunal. The OA No.2373 of 2003 filed before the PB, New Delhi was disposed of on 9.7.2008 with direction to pass a detailed and speaking order on the request of the applicants therein (Annexure-3). The Guwahati bench of the Tribunal also disposed of the OA No. 31/2008 on 19.3.2008 in the light of the order of the PB in the aforesaid case [Annexure-4]. The

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Guwahati Bench also disposed of the OA No. 52/2009 on 5.3.2010 filed by the Survey Assistants praying grant of pay scale of Rs.5500-9000/- to them [Annexure-5]. Against the order dated 5.3.2010 in OA No. 52 of 2009 the Respondents filed Writ Petition before the Hon'ble High Court of Assam at Guwahati. Similarly, against the order dated 9.2.2010 in OA No. 727 of 2009 of the PB, New Delhi, the Respondents have filed writ Petition before the Hon'ble High Court of Delhi [Annexure-6 series). In the aforesaid circumstances it was contended by the Learned Counsel appearing for the Applicants that the PB, New Delhi decided OA No. 727 of 2010 on 9.2.2010 without taking into consideration its earlier order dated 9.7.2008 in OA No. 2373/2007. But the Guwahati Bench of the Tribunal have held that the Survey Assistants are entitled to the pay scale of Rs.5500-9000/-. But the PB, New Delhi disposed of the OA No. 727 of 2010 without taking note of the earlier decisions of the Madras Bench of the Tribunal. In view of the above, it is the contention of the Counsel appearing for the Applicants that the present grievance for grant of particular scale of pay is covered and governed by the order of other Benches of the

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Tribunal and by following the law of precedent, this Tribunal may allow the relief claimed by the Applicants in this OA.

On the other hand, it was contended by Respondents' Counsel that as admitted by the Applicants, as a matter of fact since the issue for grant of particular scale of pay as claimed by the Applicants in this OA is still under subjudice/judicial scrutiny before the Hon'ble High Court of Delhi and Guwahati, in the fitness of things this OA needs to be dismissed and after finality of the matter, if the Applicants have any grievance they can re-agitate the same.

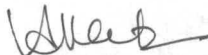
4. Perused the various decisions relied on by the respective parties including the order of the Hon'ble High Court of Delhi and Guwahati. It is seen from Annexure-R/3 that the Hon'ble High Court of Guwahati has granted stay of the operation of the impugned judgment dated 5.3.2010 in OA No. 52 of 2009 granting higher pay scale of Rs.5500-9000/- to the Survey Assistants by the Guwahati Bench of the Tribunal till final disposal of the Writ Petition. Nothing has been brought on record by either of the parties about the


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out come of the order of stay granted by the Hon'ble Guwahati Bench of the Tribunal.

5. It is not the case of the Respondents that the present case is distinct and different from the cases before the Guwahati Bench of the Tribunal. As per the law of precedent, we would have followed the decision of the Guwahati Bench of the Tribunal. But we refrain from doing so due to the reason of the ~~of the~~ stay order of the Hon'ble High Court of Guwahati and pendency of Writ Petition before the Hon'ble High Court of Delhi. Accordingly, we are of the view that the final out come of the Writ Petitions pending before the Hon'ble High Court of Assam at Guwahati and New Delhi shall govern the claim of the Applicants.

6. With the aforesaid observation and direction this OA stands disposed of. No costs.


(A.K.PATNAIK)
Member (Judicial)


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