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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No. 15 of 2010

Cuttack, this the 28th day of June, 2012

Sri Gadadhar Pani Applicant
Versus
Union of India & Ors. Respondents

O R D E R

Coram:

The Hon'ble Mr.C.R.Mohapatra,Member(Admn.)

And

The Hon'ble Mr. A.K.Patnaik, Member (Judl.)

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The Applicant while working as Inspector of
Income Tax, on reaching the age of superannuation,
retired from service in January, 2008. By filing this OA on
8th January, 2010 he has sought the relief as under:

“Issue direction to the Respondents to recast the pension and other retirement benefit as would be payable to the applicant on the basis of the seniority from the date of declaration of ITO examination result of the applicant on actual date of promotion i.e. from 13.10.1995 since the Hon'ble High Court vide WP (C) No. 4493/2002 and WP (C) No.24/2003 had made set aside of the order of the Hon'ble Tribunal passed in OA No. 542/1995 dated 9.8.2002 basing on which the Review DPC granted notional promotion to the applicant from 18.06.2001;

May further be pleased to hold that the applicant to get proper monetary compensation and all other benefit from the date of actual promotion keeping in view the principles decided by the Hon'ble High Court in the above judgment and the order of the Respondent No.4 dtd.25.6.2003 has no relevance and

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the seniority of the applicant should be considered as would be prior to the said order of the Opp. Party No.4. Therefore, any failure of the Respondents to carry out the orders and delay to these matters may be treated as intentional and liable to face the contempt of proceedings."

2. In the counter, it has been stated by the Respondents that the applicant initially joined in the grade of Inspector of Income Tax on 21.09.1990. Subsequently, he was promoted to the grade of ITO on 13.10.1995. The Applicant appeared at the Departmental Examination for Income Tax Officer in June, 1993 and result thereof was declared in the month of February, 1994. During those days passing of Departmental examination was reckoned from the last date of examination i.e. from June, 1993 in the instant case, on the basis of instruction issued by Directorate of Inspection (Income Tax) vide F.No.E.O.II (2)(2)74/DIT dated 13.02.1974 (Annexure-R/1).

2(i) It has been stated that the applicant, in this OA, seeks retrospective application of the judgment dated 10-09-2001 SLP (C) No. 10995/01 [UPSC Vrs Ajay Kumar Das] and the order of the Hon'ble High Court of Orissa

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dated 31-10-2008 taking a view other than what has been prevailing in the Department since 1974 (Annexure-R/1) which is not permissible.

2(ii) The Respondents further contend that the Applicant's seniority was pushed down to 18-06-2001 from 13-10-1995 vide order dated 25-06-2003, as per the judgment dated 09-08-2002 in OA No. 542/1995 of this Tribunal which was subsequently restored to 13-10-1995 vide order dated 07-11-2008 as per the order of the Hon'ble High Court of Orissa dated 31-10-2008.

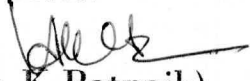
2(iii) Hence, the Respondents submit that in view of the above, the claim of the applicant that his seniority position should be reckoned from 1993-94 after the annulment of the order of this Tribunal dated 09-08-2002 in OA No. 542 of 1995 by the Hon'ble High Court of Orissa is not correct as the applicant had acquired eligibility for promotion from the RY 1993-94 whereas S/Shri Alok Nath, G.C.Dash, Sahadev Behera, G.C.Bhoi and U.C.Satpathy who were senior to him and had passed the departmental examination earlier were promoted

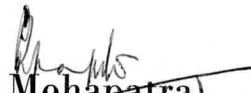
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against the vacancies of the RY 1993-94. As such the case of the applicant was considered later. Accordingly, Respondents have prayed for dismissal of this OA. No rejoinder has been filed disputing the contentions raised by Respondents.

3. As Respondents in compliance of the order of the Hon'ble High Court of Orissa had already restored the seniority position of the applicant to 13.10.1995, there remains nothing further to be adjudicated in this OA. Hence this OA is accordingly disposed of as infructuous.

No costs.


(A.K. Patnaik)
Member (Judicial)


(C.R. Mohapatra)
Member (Admn.)