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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A. No. 260/00808 of 2016
Cuttack this the 6th Day of January, 2017.

**CORAM
HON'BLE SHRI A.K.PATNAIK, MEMBER(J)**

Ananta Charan Nayak, IAS,
aged about 59 years,
son of late Narayan Nayak
of village Jayamangal,
P.O. Narasinghpur, District: Cuttack
at present working as
Additional Chief Electoral Officer-cum-Additional Secretary to
Government, (Home Department), Odisha Secretariat, Bhubaneswar,
District: Khurda.

..... Applicant.

By the Advocate(s)-M/s. Budhadev Routray, S. Das, K. Mohanty,
S.K. Samal, S.P. Nath, S.D. Routray,

-VERSUS-

- 1) Union of India, Represented through its Secretary to Government, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, New Delhi-110001.
- 2) State of Odisha, represented through the Chief Secretary, General Administration department, Secretariat Building, Bhubaneswar, Dist: Khurda.
- 3) Union Public Service Commission, represented through its Secretary, Dholpur House, Sahajahan Road, New Delhi-110069.

..... Respondents

By the Advocate(s)-Mr. S. Behera, Mr. J. Pal and Mr. R.C. Swain.

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ORDER (ORAL)

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

Heard Mr. B.Routray, Ld. Sr. Counsel, assisted by Mr. K.Mohanty, Ld. Counsel for the Applicant, Mr. S. Behera, Ld. Sr. Central Govt. Panel Counsel for the Union of India, Mr. J. Pal, Ld. Govt. Advocate for the State of Orissa, and Mr. R.C. Swain, Ld. Counsel appearing for the UPSC, and

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perused the materials placed on record. Copies of this O.A. have already been served on the Ld. Counsels appearing for the Respondents.

2. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:

“Admit the original application, call for the records and after hearing the parties this Hon’ble Tribunal be pleased to direct the opposite parties particularly opposite party Nos.1 and 2 to appoint the applicant to IAS against the vacancy of the year 2010 and modify the Notification dated 25.02.2015 and Notification dated 03.02.2016 issued by opposite party Nos. 1 and 2 respectively under Annexure-8 and 10 by antedating the date of promotion of the applicant from the date his immediate juniors were given Promotion to IAS vide notification dated 01/22.06.2012 under Annexure-2 in terms of the recommendation of the Review Selection Committee dated 10.12.2013 under Annexure-7 and accordingly extend all such consequential service benefits including the financial benefits as due and admissible within a reasonable time to be stipulated by this Hon’ble Tribunal.

And pass any other order(s)/direction(s) as this Hon’ble Tribunal may deem fit and proper to provide justice to a deprived.”

3. It transpires from the records that the applicant was before this Tribunal in OA No.158/2013 which was disposed off with direction for consideration of the representation of the applicant with regards to his selection to the post of IAS against the select list of the year 2010. From Annexure-7 (Review DPC), it is seen that the said Review Selection committee met on 10/12/2013 after having scrutinized the relevant records as against the applicant including CCRs of the relevant years i.e. from 2005-06 to 2009-10 and on comparative assessment of merits found the applicant suitable and eligible for promotion to the

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cadre of IAS for the 2010. The review selection committee has even gone to the extent of fixing the inter se seniority of the applicant by placing him at serial no.15A below Sri Harekrushna Behera, IAS and above Sri Chudamani Seth and Govind Chandra Sethi, IAS of the select year -2010. Surprisingly, the very same Review Selection Committee erroneously conditioned the promotion of the applicant retrospectively for the select list of the year 2010 with an alleged departmental proceeding against the applicant which surfaced in the year 2012. In my opinion, the Review Selection Committee is normally confined to the period in which the original selection took place and consideration of suitability of the applicant vis-à-vis other competitors at that particular relevant point of time and subsequent development in respect of any incumbent has no bearing. Moreover the departmental proceeding initiated against him has ended in fully exoneration. In view of the matter since the review selection committee has found the applicant suitable and fit for promotion for the recruitment year 2010, denial of practical legitimate benefit to the applicant w.e.f. 2010 is unjustified. Para 9 of the Minutes of the meeting of the Review Selection Committee dt. 10.12.2013 is quoted hereunder:

“The Review Committee were informed that the State Govt. have certified that there is no material change in the service records of Shri Ananta Charan Nayak in the relevant years of the assessment matrix for the Select List of 2010, i.e. 2005-06 to 2009-10. Therefore, the Review Selection Committee adopted the year-wise assessments including the over-all assessment of “Very Good” assigned to the officer by the Selection Committee which met on 08.08.2011 to prepare the Select List of 2010. On the basis of this assessment, the Review Selection Committee recommended

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the name of Shri Ananta Charan Nayak for promotion to IAS of Orissa Cadre for the Select List Year 2010 and kept him at S. No.15A below Shri Harekrishna Behera (SC) and above Shri Chudamani Seth (SC) of the Select List prepared on 08.08.2011. However, the inclusion of the name of Shri Ananta Charan Nayak in the Select List of 2010 will remain provisional subject to clearance in the disciplinary proceedings pending against him by the State Government.”

3. Mr. Routray, Ld. Sr. Counsel for the applicant, submitted that although the applicant has ventilated his grievance by making representations vide Annexures-A/9 and A/11 before Respondent Nos. 2 and 1 respectively but till date no reply has been received from the said authorities.

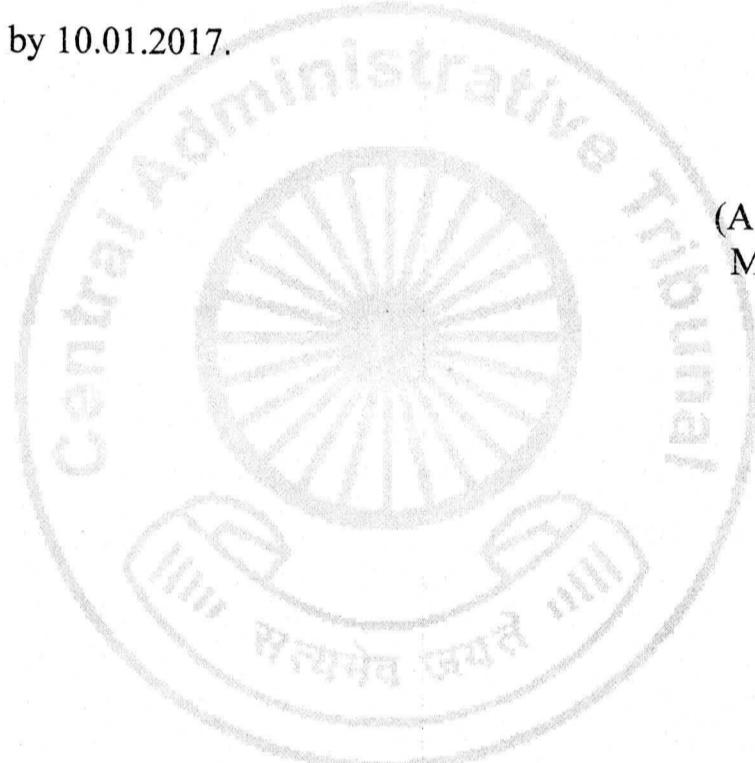
4. Since the representations of the applicant are stated to be pending with Respondent Nos.1 and 2, without going into the merit of the matter, I dispose of this O.A. at this admission stage with direction to Respondent Nos.1 and 2 to consider the aforesaid representations, if at all filed and are still pending with them, keeping in mind the minutes of the meeting of RSC held on 10.12.2013 under Annexure-A/7 and to pass a well reasoned order and communicate the result thereof to the applicant within a period of three months from the date of receipt of a copy of this order. I make it clear that although I have not entered into the merit of the case and all the points raised in the representations are kept open for the Respondent Nos.1 and 2 to consider as per the rules and regulations in force, still then I hope and trust that if after such consideration, the applicant's case is found to be genuine then necessary steps be taken for redressal of his grievance preferably within a further period of three months from the date of such consideration. However, if in the meantime, the said representations of the applicant has already been disposed of, then the

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result of the same be communicated to the applicant within a period of four weeks from the date of receipt of a copy of this order.

5. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.

6. Copy of this order along with paper book be communicated to Resp. Nos. 1 and 2 by Speed Post at the cost of the applicant for which Mr. K.Mohanty, Ld. Counsel for the applicant, undertakes to file the postal requisites by 10.01.2017.

A circular seal of the Central Administrative Tribunal. The outer ring contains the text "CENTRAL ADMINISTRATIVE TRIBUNAL" in English and "संघ नियन्त्रण आयोग" in Hindi. The inner circle features a 24-spoke Ashoka Chakra in the center, surrounded by the text "संघ नियन्त्रण आयोग" in a circular pattern.
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(A.K.PATNAIK)
MEMBER (J)

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