

6

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00878 OF 2016
Cuttack, this the 9th day of December, 2016

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

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Shri Purnendu Kumar Senapati, IPS(Retd.) Aged about 71 years, Son of Late Dasarathi Senapati, Ex-DG & IG of Police Fire Service & Commandant General Home Guards, Orissa Cuttack, residing Plot No. B/1506, Sector-6, CDA, Cuttack-14.

...Applicant

(By the Advocate-M/s. D. K. Mohanty)

-VERSUS-

Union of India Represented through

1. Secretary to Govt. of India, Ministry of Personnel, PG & Pensions, Department of Personnel and Training, New Delhi-110011.
2. The Secretary to Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi-110001.
3. The Chief Secretary to Govt. of Odisha, Secretariat, Bhubaneswar, Dist-Khurda.
4. The Principal Secretary to Govt. of Orissa, Home Department, Secretariat, Bhubaneswar, Khurda.
5. The Director General & Inspector General of Police, Odisha, Buxibazar, Cuttack.
6. The Accountant General (A & E) Odisha, Bhubaneswar.

...Respondents

By the Advocates- Mr.S. Behera,SCGPC (R-1 & 2), Mr. J. Pal, G.A. State(R-3,4 & 5)

ORDER (Oral)

A. K.PATNAIK, MEMBER (J):

Heard Mr. D.K. Mohanty, Ld. Counsel appearing for the applicant, Mr. S. Behera, Ld. SCGPC appearing for the Union of India and Mr. J. Pal, Ld. G.A. appearing for the State of Odisha and perused the materials placed on record. .

2. Applicant's case in nutshell is that on the basis of the recommendations of the 5th CPC, the Government of India, Ministry of Finance, Department of Expenditure issued OM dated 01.03.2004 (Annexure-A/2) merging 50% of Dearness Allowance with basic pay being made effective from 01.04.2004. It was further directed therein that the basic



pay shall be shown distinctly as Dearness Pay (DP) which would be counted for the purpose like payment of allowances, transfer grant, retirement benefits and contribution of GPF etc. Subsequently, vide letter dated 31.03.2004 (Annexure-A/3) the Ministry of Personnel, P.G. and Pensions issued specific instruction (enclosing thereto a copy of OM dated 1.3.2004) to the Chief Secretaries of all the State Governments and Union Territories for payment of the benefit of the 50% merger to the Members of All India Services working under the jurisdiction of various State Government/Union Territories. It is the case of the applicant that he belongs to an Officer of All India Service and while working as DG & IG of Police Fire Service & Commandant General Home Guard, retired on attaining the age of superannuation w.e.f. 31.12.2005. Although as per the OM under Annexure-A/2 and A/3 he was entitled to the benefit of the 50% merger the same is not being paid to him by the Government of Odisha despite repeated representations. The further case of the applicant is that such non-payment of the benefits of 50% merger to a similarly situated IPS Officer namely Mahesh Chandra Mohanty came up for consideration before this Tribunal in OA No. 557 of 2005 and as per the order dated 16th October, 2006 of this Tribunal he has been paid the benefit of the merger but the said benefit has not been extended to him though he is entitled to the same as per rule and law. Hence, by filing the instant O.A. he virtually seeks the benefit of the merger of the 50% DA as per the order of the Government of India, Ministry of Finance, Department of Expenditure, New Delhi, and Ministry of Personnel, P.G. and Pensions, under Annexures-A/2 and A/3 respectively



and has laid emphasis on the order dated 16.10.2006 in O.A.No. 557 of 2005 (Mahesh Chandra Mohanty-Vrs-Union of India and others) (Annexure-A/3).

3. I have considered the rival submissions advanced by Mr. D.K.Mohanty, Ld. Counsel for the applicant, Mr. S. Behera, Ld. SCGPC appearing for the Union of India and Mr. J. Pal, Ld. G.A. appearing for the State of Odisha and perused the pleadings and documents placed on record in support thereof. On the face of the orders of the Government of India, Ministry of Finance, Department of Expenditure, New Delhi and Ministry of Personnel, P.G. and Pensions under Annexures-A/2 and A/3 respectively and the order of this Tribunal dated 16.10.2006 in O.A.No. 557 of 2005 (Annexure-A/4) and pendency of the representations, at this stage I do not like to keep this matter pending inviting counter reply of the other side. Hence, as prayed for by the Ld. Counsel for the applicant, without expressing any opinion on the merit of this case, this O.A. is disposed of at this admission stage calling upon the Respondent No.3 (Chief Secretary to Govt. of Odisha, Secretariat, Bhubaneswar, Dist. Khurda) to grant the benefit of 50% merger to the applicant as per Rules/law in consideration of the representations at Annexure-A/6 within a period of 45 days from the date of receipt of a copy of this order and communicate the result thereof to the applicant by way of a well reasoned order. No costs.

4. With the above observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.



9

-4-

O.A.No.260/00878 of 2016
P.K. Senapati -Vs- UOI

5. On the prayer made by Mr. DK. Mohanty, Learned counsel for the applicant, copy of this order along with paper book of O.A. be sent to Respondent Nos. 1 & 3 by Speed Post at the cost of the applicant for which Mr. Mohanty undertakes to file the postal requisites by 19.12.2016.


(A.K.PATNAIK)
MEMBER(J)

K.B.

