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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A. No. 260/00897 of 2016

Cuttack this the 21st Day of December, 2016

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

Swapan Kumar Das, aged about 61 years, Son of Late Binod Das, Ex-Upper Division Clerk (UDC), National Sample Survey Office, Field Operation Division, (NSSO, FOD), Permanent resident of Vill-M.V. 36, Post-Apanmala, PS-Orkel, Dist. Malkanagiri.

...Applicant

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

-VERSUS-

1. Union of India, Represented through its Secretary, Govt. of India, Ministry of Statistics & Programme Implementation, Subordinate Statistical Service Division, Sardar Patel Bhawan, SansadMarg, New Delhi-110001.
2. The Director General, Govt. of India, Ministry of Statistics & Programme Implementation, National Sample Survey Office, (Field Operations Division), East Block No.6, Level-4-7, R.K. Puram, New Delhi-110066.
3. The Additional Director General, Govt. of India, Ministry of Statistics & Programme Implementation, National Sample Survey Office, (Field Operations Division) East Block No.6, Level-4-7, R.K. Puram, New Delhi-110066.
4. The Dy. Director General, Govt. of India, Ministry of Statistics & Programme Implementation, National Sample Survey Office, (Field Operations Division), Orissa (East) Region, Commercial Complex, 1st Floor, AcharyaVihar, Bhubaneswar-751013.
5. The Director, National Sample Survey Office, Field Operation Division, (NSSO, FOD), 161-Sen Park Lane, Nayapada, Sambalpur.

.....Respondents

By the Advocate(s)-A. Pradhan,



ORDER(Oral)]A.K.PATNAIK, MEMBER(J):

Heard Mr. D.K. Mohanty, Ld. Counsel appearing for the applicant, and Mr. A. Pradhan, Ld. ACGSC appearing for the Respondents, on whom a copy of this O.A. has already been served on the question of admission and perused the records.

2. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 in which applicant has challenged the arbitrary and discriminative action of the Respondents in not granting him the next promotional Grade Pay of Rs.4800/- w.e.f. 1.9.2008 on account of grant of benefits under 3rd MACP scheme.

3. Brief facts leading to filing of this O.A. are that the applicant joined as Asst. Teacher under Dandakaranya Project, Govt. of India in the pay scale of Rs.260-450/- and after winding up of the said project, the applicant was directed to join as LDC at Malda, West Bengal in the Dept. of NSSO (FOD) with pay protection. As per the verdict of the Hon'ble Apex Court, Asst. Teachers' scale of pay was upgraded to Rs. 1200-2040/- which was implemented w.e.f. 1.1.1986 and LDC's scale was revised to Rs.4000/- - 6000/- with effect from 1.1.1996. After implementation of ACP Scheme with effect from 9.8.1999, the applicant got the 1st ACP with effect from 9.8.1999 in the scale of pay of Rs.4500-125-7000/- and 2nd ACP with effect from 21.12.2000 in the scale of pay of Rs.5000-150-8000/-. It has been submitted that after the introduction of MACP Scheme which came into being with effect from 1.9.2008, 1st, 2nd, and 3rd financial up-gradations are admissible on completion of 10, 20 and 30 years of service. Grievance of the applicant is



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that he was granted 3rd MACP in PB-2 with a grade pay of Rs.4,600/- with effect from 1.9.2008 instead of Rs.4,800/- to which he is entitled to. Though the applicant made representation dated 2.1.2014 to the Respondents to extend him Grade Pay Rs.4800/-, the Respondent No.3 vide his letter dated 3rd June, 2014(A/9) intimated the Applicant as under.

“The cases of 3rd financial up-gradation under MACP in respect of S/Shri S.K. Das and A.K. Bakshi, UDC, Sambalpur have been considered and not agreed to.”

4. After receipt of the above communication, the applicant made a further representation on 03.06.2014 (**Annexure-A/10**) followed by another representation dated 10.02.2015 (**Annexure-A/11**) to Respondent Nos. 2 and 3 and since no reply has been received by him so far, he has moved this Tribunal in the instant O.A. seeking the following relief.

- (i) To quash the letter dt. 03.06.2014 under Annexure-A/9;
- (i) To direct the Respondents to grant 3rd financial up-gradation under MACP scheme to the applicant w.e.f. 1.9.2008 of Grade Pay of Rs.4800/- as has been extended to Sri G. Sengupta under Annexure-A/7, pay him all the arrear financial benefits retrospectively and accordingly fix the higher pension;
- (ii) To pass any other order/orders as deemed fit and proper.

5. I have considered the rival submissions. In view of the fact that after rejection of his representation, the applicant has preferred further representations which in the nature of an appeal. At this stage, I am not inclined to issue notice asking the respondents to file their counter. Therefore, without going into the merit of the matter, I dispose of this O.A. at this admission stage with direction to Respondent No.4 to reconsider the aforesaid representation dt. 14.9.2015 [keeping in mind the Office Order dt. 10.12.2013 (Annexure-A/7)] if at all filed and is still pending consideration, in



the light of the extant rules and regulations and communicate the result thereof to the applicant by way of a well reasoned order within a period of two months from the date of receipt of a copy of this order.

6. Though, I have not expressed any opinion on the merit, all the points raised in his representation are kept open to be considered by the authorities concerned, It is made clear that after such consideration if the applicant is found to be entitled to the relief claimed by him, then expeditious steps be taken to extend the said benefit in his favour within a further period of two months from the date of communication of decision.

7. However, if in the meantime representation has already been considered and disposed of, then the result thereof be communicated to the applicant within a period of two weeks from the date of receipt of copy of this order.

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

9. On the prayer made by Mr. D.K. Mohanty, Ld. Counsel appearing for the applicant, copy of this order along with paper book be communicated to the Respondent No.3 and 4 by Speed Post at the cost of the applicant, for which Mr. Mohanty undertakes to file the postal requisites by 23.12.2016.

10. Free copy of this order be made over to Ld. Counsels of both sides.


(A.K.PATNAIK)
MEMBER (J)