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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK
Original Application No.260/00553 of 2015
Cuttack, this the 3rd day of September, 2015

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

Nishakar Mallick, aged about 55 years, Son of Late Duruje Mallick,
At: Biswali, P.O. Bhutmundai, P.S. Paradeep Lock, Dist. Jagatsinghpur, At
present working at Customs Division, Paradeep.

..... Applicant

(Advocates: M/s. S. Pattnaik, K.C. Swain, R.N. Rout)

VERSUS

Union of India Represented through

1. Secretary, Ministry of Finance,
Department of Revenue,
Central Board of Excise and Customs,
At-5th Floor, HUDCO, Vishala Building,
Bhikajikama Place, New Delhi.

2. Additional Commissioner,
Customs (Preventive)
Commissionerates, 1st Floor,
C.R. Building, Rajswa Vihar,
Bhubaneswar, Orissa.

..... Respondent

(Advocate: Mr. S. Patra)

ORDER(Oral)

A.K. PATNAIK, MEMBER (J):

Heard Mr. S. Pattnaik, Ld. Counsel appearing for the Applicant and
Mr. S. Patra, Ld. ACGSC appearing for the Respondents on whom a copy of this
O.A. has already been served and perused the materials placed on record.


2. The facts of the case ^{are R} is that initially the applicant joined as Casual
Crew in the post of "Sukhani" on 01.11.1991. Thereafter on 11.04.1996 the
service of the applicant has been confirmed in the same Grade. After completion
of 17 years of service in the said post the applicant ^{was R} promoted to the post of
"Tindal" on 07.07.2009. Thereafter, on 06.07.2010 the applicant submitted a
representation regarding grant of ACP and MACP. In pursuance of O.M. dated



19.05.05 of the Ministry of Finance the applicant was granted second financial upgradation on completion of 20 years of regular service under MACP Scheme to the next higher grade of pay in the hierarchy w.e.f. 18.05.2012. Mr. Pattnaik further submitted that being aggrieved by the inaction on the part of the respondents in not giving promotion to the applicant to the next higher grade as per the order dated 16.04.2015 (Annexure-A/11) the applicant submitted a representation on 04.06.2015 (Annexure-A/12) before the Respondent No.2 for promotion to the next higher grade. The same is still pending for consideration. Hence the applicant has filed the present O.A. under Section 19 of the Administrative Tribunal Act, 1985 for necessary direction to the Respondents Authorities against the discriminatory and ^{fallible} ~~fallible~~ acts while determining the matter of promotion of the applicant, in spite of the fact that, the applicant ^{meets} ~~emerges~~ all the qualities, norms and conditions akin to the "Marine Organization of Customs and Central Excise Department (Group C & D Posts) Recruitment Rules, 1994 but he has been deprived of such promotion.

3. Mr. Patra, Ld. ACGSC submitted that the representation so preferred by the applicant on dated 04.06.2015 (Annexure-A/12) is still pending consideration.

4. Taking into account such submissions made by Ld. Counsels for the respective parties and also as we find that ventilating his grievance the applicant has made a comprehensive representation dated 04.06.2015 (Annexure-A/12) before the Respondent No.2 and till date no response has been communicated from Respondent No.2, we do not feel it proper to keep the matter pending. Accordingly, we dispose of this O.A. that if any such representation is stated



to have been filed on 04.06.2015 and the same is still pending for consideration, Respondent No.2 is hereby directed to consider and dispose of the same (Annexure-A/12) as per Rules and communicate the result thereof to the applicant by way of a reasoned order within a period of two months from the date of receipt of copy of this order. However, we have not expressed any opinion on the merit of the matter and the points raised by the applicant in his representation are kept open for the authorities to consider the same as per rules, regulations and law in force. If after such consideration, the applicant is found to be entitled to the relief claimed by him then expeditious steps be taken within a further period of three months from the date of such consideration to extend the benefit to the applicant. However, If, in the meantime, the said representation has already been disposed of, then the result thereof 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 this O.A. is disposed of at the stage of admission itself. No costs.

6. On the prayer made by Mr. S. Pattnaik, Ld. Counsel for the applicant, copy of this order, along with paper books, be sent to Respondent No.2 by Speed Post at the cost of the applicant for which he undertakes to file the postal requisites by 08.09.2015.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)