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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. NO. 260/00100 OF 2015
Cuttack, this the 27th day of February, 2015

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

.....

Srinibas Rath, IAS (Retd.)

aged about 70 years,

S/o. Late Madhusudan Rath,

Ex-Development Commissioner-cum-Chief Secretary, Odisha

Residing Plot No. A/412, Saheed Nagar,

Bhubaneswar, Dist- Khurda- 751007.

.....Applicant

Advocate(s)Mr. D.K.Mohanty.

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Union of India represented through

1. Secretary to Govt. of India,
Ministry of Personnel, PG & Pensions,
Department of Personnel and Training,
New Delhi-110001.
2. Secretary to Govt. of India,
Ministry of Finance,
Department of Expenditure,
New Delhi-110001.
3. Chief Secretary to Govt. of Odisha,
Secretariat, Bhubaneswar,
Dist-Khurda.
4. Accountant General (A&E), Odisha,
Bhubaneswar.

..... Respondents

Advocate(s)..... Mr. S.Barik (For R-1, 2 & 4)
Mr. G.C.Nayak (For R-3)

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O R D E R (ORAL)

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

Heard Mr. D.K.Mohanty, Ld. Counsel for the applicant, Mr. S.Barik, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondent Nos. 1, 2 and 4, and Mr. G.C.Nayak, Ld. Govt. Advocate for the State of Orissa appearing for Respondent No.3. Copies of this O.A. have been received by Mr. Barik as well Mr. Nayak.

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/1) 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/2) 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 Development Commissioner-cum-Addl. Chief Secretary of Odisha State, retired on attaining the age of superannuation w.e.f. 31.07.2004. Although as per the OM under Annexure-A/1 and A/2 he was entitled to the benefit of the 50% merger the same is not being paid to him by the Government of Odisha despite his representation dated 14.11.2014 (Annexure-A/5). The further case of the applicant is that such non-payment of the

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benefits of 50% merger to a similarly situated IPS Officer namely Mahesh Chandra Mohanty was the subject matter of 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. However, the said benefit has not been extended to him though he is entitled to the same as per rule and law. He has further relied on the order dated 21.03.2014 of this Tribunal passed in O.A. No. 173/14 filed by one Sanjib Chandra Hota (Retd. IAS) (Annexure-A/4).

3. Mr. Nayak, Ld. Govt. Advocate for the State of Orissa, at the outset, submitted that the applicant has made a representation on 14.11.2014 and before expiry of six months time, he has filed this O.A. which should be rejected at the threshold.

4. On the other hand, Mr. Mohanty prayed that a direction may be issued to consider the representation of the applicant as in the meantime almost three months have passed.

5. We have considered the rival submissions advanced by Mr. D.K.Mohanty, Ld. Counsel for the applicant, Mr. S.Barik, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondent Nos. 1, 2 and 4, and Mr. G.C.Nayak, Ld. Govt. Advocate for the State of Orissa appearing for Respondent No. 3, and perused the materials placed on record.

6. Taking into account the prayer made by Mr. Mohanty, we direct Respondent No.3 to consider and dispose of the representation dated 14.11.2014 under Annexure-A/5, which was also forwarded by letter dated 24.11.2014 under Annexure-A/6, as per rules in force and communicate the result thereof to the applicant by way of a well reasoned order within a period of 60 days from the date of receipt of a copy of this order. After such consideration, if the applicant is found



to be entitled to get the benefits as claimed by him in the representation then expeditious steps be taken preferably within a period of 90 days from the date of such consideration to extend the same to the applicant. However, we have not expressed any opinion on the merit of case and Respondents are free to deal with the matter as per the Govt. of India guidelines and rules framed therein. No costs.

7. As prayed for by Mr. Mohanty, Ld. Counsel for the applicant, copy of this order, along with the paper book, be transmitted to Respondent No. 3 by Speed Post, at the cost of the applicant, for which he undertakes to file the postal requisites by 03.03.2015.


(A.K.PATNAIK)
MEMBER(Judl.)

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