

4

CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O. A. No. 260/00923 OF 2015

Cuttack, this the 15th day of January, 2016

CORAM

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

Baidhar Rout, aged about 61 years, S/o Late Daitari Rout, At- Madhupur, P.O.- Belgacia, P.S. Barang, District- Cuttack-754005

(The applicant was working as AAO in IP & TAFS Group "B" in the O/o the Director of Accounts (Postal), Cuttack & Raipur.....Applicant

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

-Versus-

Union of India represented through:

1. The Secretary(Posts), M/O Communication and Information Technology (Department of Posts), Dak Bhawan, Sansad Marg, New Delhi-110001.
2. The Member(Finance),M/o Communication and Information Technology (Department of Telecommunications), Sanchar Bhawan, Ashoka Road, New Delhi-110001.
3. The Deputy Director General (PAF), Postal Accounts Wing, (Department of Posts), Dak Bhawan, New Delhi-110001.
4. The Director of Accounts(Postal),Postal Accounts Office, Odisha Circle,Mahanadi Vihar, Cuttack-753004.
5. The Dy. Director of Accounts (Postal),Postal Accounts Office, Chhattisgarh Circle, Tikrapara, Raipur, 492001.
6. Laya Majhi, Retired SA, Postal Accounts, Cuttack-4,A/P:Udala, Mayurbhanj-757041

.....Respondents

By the Advocate(s)-Mr. S.K. Patra

ORDER (Oral)

A.K. PATNAIK, MEMBER(J):

Heard Mr. G. Singh, Learned Counsel for the applicant, and Mr. S.K. Patra, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents, on whom a copy of this O.A has already been served, and perused the materials placed on record.

2. By filing a memo dated 14.01.2016, Mr. Singh brought to my notice that similar matter bearing O.A No. 260/00207/2015 has been disposed of by this Bench on 24.07.2015 and he has no objection if the similar order is passed in this O.A also. He further submitted that the applicant in this OA is similarly situated to that of the applicant in the O.A. No. 260/00207/2015.

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

"1. To quash the impugned order dated 20.04.2015 under-A/1.

[Signature]

2. To issue appropriate direction directing Respondents to extend the benefit of the Grade Pay of Rs. 5400/- with fixation benefits at par with his subordinates, on the basis of the order passed by the Hon'ble Central Administrative Tribunal, Madras Bench in O.A. No. 966-967/2009 and O.A. No. 207 of 2015 of this Hon'ble Tribunal.
3. and direction may be given to Respondents to pay all consequential benefits as per their entitlement.
4. and pass any other order.....”

4. The case of the applicant is that he belonged to the combined cadre of India Posts and Telecommunications Accounts and Finance Service, Gr. 'B' Gazetted cadre and his posting is interchangeable between the Department of Posts & Telecommunications with all India transfer liabilities. His grievance is that while working as AAO, he was/ is drawing Grade Pay of Rs.4,800/-. It has been submitted that some of the AAOs moved the Madras Bench of the Tribunal in O.A. No.966 and 967 of 2009, in which the Madras bench of the Tribunal directed payment of GP of Rs.5400/- in PB-2 to the AAOs , which has also been upheld by the Hon'ble High Court of Madras and the Hon'ble Supreme Court of India. Mr. Singh, Ld. Counsel for the applicant, submitted that similar matter was filed before the Guwahati Bench of the Tribunal and due to difference of opinion the matter was referred to third Member, who vide order dated 25.02.2015 concurred the view that AAOs are entitled to GP of 5400/-. In a similar matter, relying on the aforesaid orders, the Ranchi Circuit Bench of this Tribunal has also passed order dated 23.03.2015 in O.A. No.051/00073/2015. Mr. Singh further submitted that the applicant, in the present O.A., made representation for grant of aforesaid benefits to him but the same has been rejected vide letter dated 20.04.2015. Accordingly, he has approached this Tribunal in the present O.A with the aforesaid prayers.

5. Having heard Id. Counsel for both the sides, it, *prima facie*, appears that the case of the applicant is similar to the earlier orders of the CAT (cited supra). The trite proposition of law is that the similar benefits should be extended to the alike employees of the Department. In this regard, I would like to refer the orders passed by the Hon'ble Supreme Court of India in the case of K.C. Sharma & Ors. Vs. Union of India & Ors.(1997) INSC 619(25 July, 1997), operative part of which reads as under.

W.LL

“Having regard to the facts and circumstances of the case, we are of the view that this was a fit case in which the Tribunal should have condoned the delay in the filing of the application and the appellants should have been given relief in the same terms as was granted by the Full Bench of the Tribunal. The appeal is, therefore, allowed the impugned judgment of the Tribunal is set aside, the delay in filing of O.A. No.774 of 1994 is condoned and the said application is allowed. The appellants would be entitled to the same relief in matter of pension as has been granted by the Full Bench of the Tribunal in its judgment dated December, 16, 1993 in O.A. Nos.395-403 of 1993 and connected matters. No order as to costs.”

At this stage I am also reminded with the legal maxim of **consimili casu consimile debet esse remedium**, which means that in a similar case remedy should be similar.

6. The order impugned in this O.A dated 20.04.2015, in the aforesaid circumstances, being contrary to the law laid down by the Hon’ble Apex Court, I do not see any justifiable reason to keep this matter pending by way of inviting reply/rejoinder etc. as this will cause more delay, if at all the applicant is entitled to the benefits under law. Accordingly, without deciding substantive merit of the matter, at this stage, impugned order dated 20.04.2015 is hereby quashed and the matter is remitted back to the respondent-authorities concerned to reconsider the grievance of the applicant within a period of two months in the light of the earlier orders of the Central Administrative Tribunal (cited supra) and if the applicant is held to be entitled to the benefits claimed by him upon reconsideration of his grievance then the same shall be paid to him within a further period of two months thereafter.

7. With the aforesaid observation and direction, this O.A. stands disposed of. No. costs.

8. On the prayer made by Mr. Singh, Learned Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent Nos. 1 and 2 by Speed Post for which he undertakes to file the postal requisites by 20.01.2016.


(A.K.PATNAIK)*
MEMBER(J)