

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00100 OF 2016
Cuttack, this the 27th day of April, 2016

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

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Benudhar Mahalik,
aged about 57 years,
S/O late Gobinda Mahalik,
Vill./P.O. Pingua, PS. Nihal Prasad,
District Dhenkanal
At present working as Administrative Officer
CSIR-Institute of Minerals & Materials Technology(IMMT)
P.O. RRL Campus, Acharya Vihar,
Bhubaneswar-751013 Dist: Khurda, Odisha

.....Applicant

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

-Versus-

Union of India, represented through

1. Secretary,
Ministry of Finance,
Department of Expenditure,
Govt. of India, New Delhi-110002.
2. Joint Secretary(Admn.)
Council of Scientific and Industrial Research,
Anusandhan Bhawan, 2 Rafi Marg,
New Delhi-110001.
3. Director General,
Council of Scientific and Industrial Research,
Anusandhan Bhawan, 2 Rafi Marg,
New Delhi-110001.
4. Director,
CSIR-Institute of Minerals & Materials Technology,
P.O. RRL, Bhubaneswar-751013.

.....Respondents

By the Advocate(s)- Mr. A. Pradhan

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ORDER (ORAL)

A.K.PATNAIK, MEMBER (J):

Heard Mr. D.K.Mohanty, Ld. Counsel for the Applicant, and Mr. A.Pradhan, 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. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:

1. To quash the order communicated to the applicant dated. 16.01.2014, dated 29.06.2015 and dated 10.12.2015 under annexure-A/5, A/7 and A/9;

2. To direct the Respondents for issuing orders for the grant of financial benefits under the 1st ACP Scheme w.e.f. 09.08.1999 as per the DoP&T OM No. 35034/1/87-Estt.(D), dated August, 9 1999 and subsequent fixation of his pay after the grant of ACP as provided under the rules, with 12% interest;

3. And pass any other order(s) directions(s) to the Respondents for fixation of his pay in each promotional grade, within a stipulated time as this Hon'ble Court feels deem fit and proper to meet the ends of justice.

4. And to allow this O.A with cost.

3. The case of the applicant is that he had joined as Jr. Stenographer. Subsequently, he applied as a fresh candidate against the post of Sr. Stenographer and was selected. He joined the said post as a direct recruit on 07.08.1986. It has been submitted that the applicant was selected twice for promotion to the post of P.S. and was posted to CFRI, Dhanbad and NGRI, Hyderabad on 13.07.1995 and 12.11.1997 respectively but due to some family problem he did not join and, accordingly, his promotion was cancelled. Mr. Mohanty, Ld. Counsel for the applicant, submitted that subsequently the ACP

[Signature]

Scheme was introduced by the Govt. of India w.e.f. 9.8.1999 for granting financial upgradation to the Central Government Civilian Employees vide Annexure-A/2 and forgoing of promotion should not be a bar for granting 1st financial upgradation to the applicant under the said ACP Scheme. The applicant ventilating his grievance preferred a representation on 07.10.2015 (Annexure-A/8), which has been rejected vide Annexure-A/9 dated 10.12.2015. The applicant relying on the decisions of Central Administrative Tribunal, Principal Bench and Madras Bench, has filed this O.A. with the aforesaid prayers.

4. We have gone through the letter of rejection dated 10.12.2015, which reads as under:

“.....on the subject cited above and to state that the same matter had already been considered by DG, CSIR in consultation with DOPT and reply was communicated to IMMT vide CSIR letter of even no. dated 29.06.2015.

Accordingly, earlier decision of the Competent Authority communicated vide CSIR letter of even no. dated 29.06.2015 is reiterated. A copy of aforesaid letter dated 29.06.2015 is enclosed herewith for ready reference.”

5. In our considered view, the above order is a cryptic one as the points raised by the applicant in his representation dated 7.10.2015 has not been properly replied to vis-à-vis the instructions issued by the DOP&T. In view of this, we quash the order dated 10.12.2015 (Annexure-A/9) and remand the matter back to the authorities, to reconsider the case of the applicant afresh taking into account the OM issued by the DOPT as well as the law in force.

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6. With the aforesaid observation and direction, this O.A. stands disposed of at the stage of admission itself. No costs.

7. Copies of this order be made over to the Ld. Counsels appearing for both the sides.


(R.C.MISRA)
MEMBER (A)


(A.K.PATNAIK)
MEMBER (J)

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