

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00215 OF 2016
Cuttack, this the 21st day of April, 2016

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

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Prafulla Kumar Mishra, aged about 60 years, S/o. Bhagaban Mishra, OFS-I(Retd.), At present residing at Hi-Tech Plaza, Qr. No. 05/02, Block-D/5, Sundarpada, Bhubaneswar-751002, Dist. Khurda.

.....Applicant

By the Advocate(s)-M/s. R. Nayak, G.N. Rout, N. Sen.

-Versus-

Union of India, represented through

1. Director, Ministry of Environment and Forest, At Paryavaran Bhawan, Lodhi Road, New Delhi-110003.
2. Secretary, Union Public Service Commission, At-Dholpur House, Sahajan Road, New Delhi-110069.
3. Govt. of Odisha, represented through the Chief Secretary, At- Odisha Secretariat, Bhubaneswar-751001, Dist-Khurda.
4. Principal Secretary, Forest and Environment Department, At- Odisha Secretariat, Bhubaneswar-751001, Dist-Khurda.

.....Respondents

By the Advocate(s)- Mr. G.C. Nayak(G.A.)

O R D E R (ORAL)

A.K.PATNAIK, MEMBER (J):

Heard Mr. R.N. Nayak, Ld. Counsel appearing for the applicant. Mr. G.C. Nayak, Ld. Govt. Advocate for the State of Orissa, on whom a copy of this O.A. has already been served and perused the materials placed on record.

2. The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

“ (i) Therefore it is prayed that this Hon’ble Tribunal would graciously be pleased to admit the case, issue notice to the respondents and after hearing the parties, direct the Respondent No. 1 to 4 declare the “Provisional” selection of the applicant as “unconditional” in views of the order dt. 24.07.2013 of the State Administrative Tribunal in Annexure-8 and subsequent order dt. 21.07.2015 passed by the Hon’ble High Court in Annexure-12 and effect the promotion of

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the applicant to I.F.S. Cadre with effect from the date of promotion of his juniors i.e. 30.07.2009 vide Annexure-6 within a stipulated time.”

3. It reveals from the record that earlier applicant had approved this Tribunal in OA No. 920/15. This Tribunal vide order dt. 07.01.2016 held that applicant has not preferred any representation to the authorities in the State Govt. ventilating his grievance regarding his promotion to IFS and has rushed to the Tribunal soon after disposal of W.P.(C) No. 9040/14 by the Hon’ble High Court. And accordingly, rejected the OA holding that the same was not maintainable. Therefore, the OA as laid is hit by Section 19 read with Section 20 of AT Act.

4. Mr. R.N. Nayak, Ld. Counsel submitted that after the disposal of OA 920/15, applicant has preferred a representation dt. 02.02.2016 (A/14) to the Principal Secretary to the Govt. Forest & Environment, Orissa Respondents No. 4 with a request to consider his case in view of the orders passed by the State Administrative Tribunal followed by the orders passed by the Hon’ble High Court and seems nothing has been communicated to the applicant in pursuance of his representation, he has moved this Tribunal in the instant OA seeking relieve are referred to above. In the circumstances, Mr. R.N. Nayak prayed that the grievance will be met if a direction is issued to Respondent No. 4 to consider the aforesaid the representation and communicate a decision thereon within a stipulated time.

5. On the other hand Mr. G.C. Nayak, Ld. Govt, Advocate for the State of Orissa strenuously opposed the very maintainability of this OA on the ground that seems the order of the State Administrative Tribunal in OA No. 847 (C) of 2012 and the subsequent order passed by the Hon’ble High Court of Orissa in W.P.(C) No. 2629/2015 and W.P.(C) No. 9040/2014 regarding quashment of the disciplinary proceeding against the applicant while working as OFS Officer

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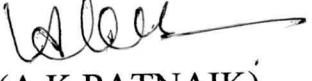
under the state Govt. of Orissa are yet to be complied with, the question of consideration of his promotion to IFS does not arise and therefore, the grievance of applicant is not amenable to the jurisdiction of this Tribunal. According Mr. G.C. Nayak prayed that the OA should be rejected being not maintainable.

6. I have considered the arrival submissions advanced at the Bar. Since the matter revolves round the disposal of representation dt. 02.02.2016 preferred by the applicant to Respondent No. 4 which is said to be pending, at the stage, without prejudice to the submissions of either of the parties and without expressing any opinion on merit, I would direct Respondent No. 4 consider the representation of the applicant aforesaid in the light of the extant rules and the instruction and communicate a decision thereon to the applicant within a period of 60 days from the date of receipt of the order.

7. With the above observation and direction, the OA is disposed of and the stage of admission itself. No costs.

8. On the prayer made by the Ld. Counsel copy of this order along with paper book of OA be sent to the Respondent No. 4 by Speed Post at the cost of the applicant for which Mr. R.N. Nayak, undertakes to file the postal requisites by 27.04.2016.

9. Free copy of this order be made over to Ld. Counsel for the parties.


(A.K.PATNAIK)
MEMBER (J)