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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.618 of 2016
Cuttack this the 7th day of September, 2016

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

Govinda Gochhayat, aged about 71 years, S/o.late Bhikari Gochhayat, resident of Village-Samalpur, PO-Kalyanpur, Via/PS-Binjharpur, Dist-Jajpur, Odisha, previously working as E.O./A.A.O.(Retired), Office of Regional Provident Fund Commissioner, Employees' Provident Fund Organization, Regional Office, Bhavishyanidhi Bhawan, Unit-IX, Janapath, Bhubaneswar-751 022, Dist-Khurda,

By the Advocate(s)-M/s.K.C.Kanungo
H.V.V.R.K.Dora

-VERSUS-

Employees Provident Fund Organization represented through:

1. Central Provident Fund Commissioner, Employees Provident Fund Organization, 14, Bhikaji Cama Place, New Delhi-110 066
2. Regional Provident Fund Commissioner, Employees' Provident Fund Organization, Regional Office, Bhavishyanidhi Bhawan, Unit-IX, Janapath, Bhubaneswar-751 022, Dist-Khurda, Odisha

...Respondents

By the Advocate(s)- Mr.S.S.Mohanty

ORDER(Oral)

A.K.PATNAIK, MEMBER(J):

Heard Mr.K.C.Kanungo, learned counsel for the applicant and Mr.S.S.Mohanty, learned counsel appearing for the respondents on the question of admission and perused the records.

2. Applicant while working as Enforcement Officer/Assistant Accounts Officer in the Provident Fund

A.K.PATNAIK, MEMBER(J):

Organization has retired on superannuation with effect from 30.06.2006. He has approached this Tribunal seeking the following relief.

- i) ...to direct the Respondents for allowing notional fixation of pay on promotion to the post of E.O./AAO w.e.f. 04.03.1990 to 17.02.2002;
- ii) ...to direct the Respondents for allowing the actual benefit of fixation of pay in the post of EO/AAO w.e.f. 18.02.2002 to 30.06.2006 with arrear;
- iii) ...to direct the Respondents to appropriately revise the pension, gratuity, leave salary and other retiral benefits in terms of fixation of pay of the applicant; and
- iv) ...to direct the Respondents to pay arrears of revised differential salary from 19.12.2002 to 30.06.2006 and the arrears on the revised pension, gratuity, leave salary and other retiral benefits in terms of fixation of pay of the applicant with interest till the actual payment is made.

3. Facts in issue are that initially applicant joined as Lower Division Clerk under the respondent-organization in the year 1967. Subsequently, he was promoted to Upper Division Clerk in the year 1986. Thereafter, he was promoted to the post of Enforcement Officer/Assistant Accounts Officer with effect from 18.12.2002 and while working as such, he retired from service on superannuation with effect from 30.06.2006.

4. It is the case of the applicant in compliance with the decision dated 05.12.2006 of the CAT, Principal Bench in O.A.No.2472/1999, the vacancies in the grade of EO/AAO were

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recast on or after 04.03.1990 in terms of the Recruitment Rules and in the process, the competent authorities, in supercession of all earlier orders in the matter of regularization in respect of Orissa Region, vide A/3 dated 05.08.2008 approved promotion/notional promotion of EO/AAOs on regular basis against the departmental quota, in which promotion of the applicant to EO/AAO was antedated to 04.03.1990.

5. Grievance of the applicant is that since his promotion as EO/AAO has been antedated to 04.03.1990 his pay in the promoted grade should have been fixed on notional basis from 04.03.1990 to 17.12.2002 and then, on actual basis with the benefit of fixation from 18.12.2002, i.e., the date of his regular promotion to 30.6.2006 when he retired on superannuation with grant of admissible consequential financial benefits including the pensionary benefits.

6. During the course of hearing on admission, Mr.K.C.Kanungo brought to our notice two successive representations submitted by the applicant to the Central Provident Fund Commissioner(res.no.1) vide A/4 and A/5 dated 10.08.2010 and 6.4.2016, respectively, in which applicant has ventilated his grievance for grant of benefits arising out of A/3 dated 5.8.2008 and since he did not receive any response, this O.A. has been filed by him before this Tribunal with the prayers as mentioned above.

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7. We have considered the rival submissions. At the outset we must express our concern the way in which the respondent-organization has been trying to exhibit their callous attitude in case of the applicant who is about 71 years old. We cannot but deprecate the approach and attitude of the respondents who apparently have procrastinated to carry into effect their own order in so far as applicant is concerned. Since nothing appears to be forthcoming to the contrary in so far merit is concerned, we are not inclined to admit this O.A. thereby further delaying the matter. In view of this, we would direct the respondents, particularly, res.no.2, subject to fulfillment of conditions, applicant be granted the benefit of fixation of pay, as due and admissible in pursuance of office order dated 5.8.2008(A/3) as early as possible, at any rate, within a period of three months from the date of receipt of this order.

8. With the above observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.

9. On the prayer made by the learned counsel, copy of this order along with paper book of O.A. be sent to res.nos.1 and 2 at the cost of the applicant for which Mr.K.C.Kanungo undertakes to file the postal requisites by 9.9.2016.

10. Free copy of this order be made over to learned counsel for both the sides.

(R.C.MISRA)
MEMBER(A)

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(A.K.PATNAIK)
MEMBER(J)

