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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 696 OF 2012

Cuttack the 16th day of August, 2013

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HON'BLE MR. A.K. PATNAIK, JUDICIAL MEMBER
HON'BLE MR. R. C. MISRA, ADMINISTRATIVE MEMBER

Sri Bhabagrahi Mahananda,
Aged about 45 years,
Son of Late Suba Mahananda,,
Permanent resident of At-Rengali,
P.O-Kamarlaga, P.S-Saintala,
Dist-Bolangir, presently residing at
Qr. No.32305/4 Type-III, OFBL Estate Colony,
P.O.-Badamal, P.S.-Saintala, Dist-Bolangir

...Applicant

(Advocates: M/s-N.K. Mishra^e, M.K. Pati, N.K. Mishra, D.K. Pani, B.P.
Satpathy, A.K. Roy, A. Mishra.)


VERSUS

Union of India Represented through

1. Secretary, Ministry of Defence,
101, South Block, New Delhi.
2. General Manager & Disciplinary Authority,
Ordinance Factory, Badmal, P.O./P.S-Badmal, Dist-Bolangir
3. The Appellate authority,
The Director General Ordinance Factory &
Chairman Ordinance Factory Board,
10A, S.K. Bose Road, Kolkata-700 001

... Respondents

(Advocate: Mr. S.B. Jena.



ORDER(Oral)

HON'BLE MR. A.K. PATNAIK, JUDICIAL MEMBER

The applicant has filed this Original Application seeking the following relief:-

- “(i) Admit the O.A. and issue notice to the Respondents.
- (ii) After hearing the parties, allow the O.A. by quashing Annexure-1 series as being illegal and erroneous;
- (iii) To direct the respondent-authorities to consider the applicant's case expeditiously for release of all consequential service benefits i.e., from the date of impugned illegal suspension.”

2. Briefly stated the facts of the case are that the applicant while working as Danger Building Worker (DBW) in the Ordnance Factory at Badmal, in contemplation of initiation of disciplinary proceeding ^e he was placed under suspension vide order dated 11.05.2011 (Annexure-A/1 series). According to applicant, although the period of suspension was extended from time to time, but he was not given the subsistence allowance in the enhanced rate on completion of the required period of suspension as enshrined under the relevant Rules. Aggrieved with the above, the applicant preferred an appeal dated 21.08.2012 vide Annexure-A/4 to the Director General Ordnance Factory & Chairman Ordnance Factory Board (Respondent No.3) for revocation of suspension. Since no response was received by him, the applicant has moved this Tribunal seeking the relief as referred to above.

3. The Respondents have filed their counter opposing the prayer of the applicant. While they have made an attempt to justify the suspension of the applicant, nothing has been stated as to what was the reason for not reviewing and enhancing the subsistence allowance of the applicant after he was put under suspension for a period of three months. It has been submitted by the Respondents that while the appeal of the

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applicant is under active consideration by the Appellate Authority, he has approached this Tribunal at a premature stage and therefore, the O.A. as laid is not maintainable.

4. We have heard the Learned Counsel for both sides and perused the materials on record. During the course of hearing, Learned Counsel for the applicant confined his relief only to the extent of enhancement of subsistence allowance.


5. Indisputably, the applicant has been placed under suspension in contemplation of initiation of disciplinary proceeding w.e.f. 11.05.2011. It is also admitted that though in the meantime more than two years have elapsed, he is in receipt ^{of} only 50% subsistence allowance. Respondents have not adduced any cogent reason as to what prevented them from not enhancing the subsistence allowance as per the laid down procedure of Rules, from time to time.

6. Since the applicant has allegedly been placed under suspension for misappropriation of pension amount, we are not inclined to fetter the discretion of the authorities from proceeding in the matter. However, at the same time, it is obligatory on the part of the Respondents to review the enhancement of the rate of subsistence allowance as provided in the CCS (CCA) Rules, 1965. Although we are not inclined to enter into the merit of the case, at the same time, we cannot lose sight of the fact of longstanding suspension of the applicant without his subsistence allowance being enhanced from time to time. In the circumstances, we direct the Respondents to review enhancement of subsistence allowance of the applicant as per laid down procedure in this regard (within a period of sixty days from the date of receipt of this order) and in the event the applicant



is entitled to enhanced subsistence allowance, the same shall be disbursed to him with effect ^{from} ~~from~~ the date he is so entitled.

7. With the above observation and direction this O.A. is disposed of.


(R.C. MISRA)
ADMN. MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER

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