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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

O.A.No.923 of 2012
Cuttack, this the 17th day of December, 2012

**CORAM
HON'BLE SHRI A.K.PATNAIK, MEMEBR (JUDICIAL)**

Shri Bipin Bihari Mishra, IPS (Retd.)
Aged about 66 years,
S/o.Late B.M.Mishra,
N/1,A/28 IRC Village,
Bhubaneswar,
Dist. Khurda.

....Applicant

By the Advocate : (M/s.S.Rath, B.K.Nayak-3, D.K.Mohanty)

-Versus-

Union of India represented through

1. The Secretary to Govt. of India,
Government of India,
Ministry of Personnel,
PG & Pensions,
Department of Personnel & Training,
New Delhi-110 011.
2. The Secretary,
Ministry of Finance,
Department of Expenditure,
New Delhi-110 001.
3. The Chief Secretary to Govt. of Odisha,
Secretariat,
Bhubaneswar,
Dist. Khurda.
4. The Principal Secretary to Govt. of Odisha,
Home Department,
Secretariat,
Bhubaneswar,
Dist. Khurda.

[Signature]

5. The Director General &
Inspector General of Police,
Odisha,
Buxibazar,
Cuttack.

.....Respondents

By the Advocate : (Mr.G.C.Nayak & Mr. S.Barik)

O R D E R (Oral)

A.K.PATNAIK, MEMBER (JUDICIAL):

Applicant's case, in a nut shell, is that on the basis of the recommendations of the 5th CPC, the Government of India, Ministry of Finance, Department Expenditure issued OM dated 01-03-2004 (Annexure-A/1) by merging 50% of Dearness Allowance with basic pay being made effective from 01-04-2004. It was further directed therein that the basic pay shall be shown distinctly as Dearness Pay (DP) which would be counted for the purpose like payment of allowances, transfer grant, retirement benefits and contribution of GPF etc. Subsequently, vide letter dated 31.3.2004 (Annexure-A/2) the Ministry of Finance, Department of Expenditure, New Delhi issued specific instruction (enclosing thereto a copy of OM dated 1.3.2004) to the Chief Secretaries of all the State Governments and Union Territories for payment of the benefit of the 50% Merger to the Members of All India Services working under the jurisdiction of various state Government/Union Territories. It is the case of the Applicant that he



belongs to an Officer of All India Service and while working as Director General and Inspector of Police, Odisha retired on attaining the age of superannuation w.e.f. 30.06.2005. Although as per the OM under Anexure-A/1 & A/2 he was entitled to the benefit of the 50% merger the same is not being paid to him by the Government of Odisha despite repeated representations. The further case of the Applicant is that such non-payment of the benefit of 50% merger to a similarly situated IPS Officer namely Mahesh Chandra Mohanty came up consideration before this Tribunal in OA No. 557 of 2005 and as per the order dated 16th October, 2006 of this Tribunal he has been paid the benefit of the merger but the said benefit has not been extended to him though he is entitled to the same as per rule and law. Hence, by filing the instant OA he virtually seeks the benefit of the merger of the 50% DA as per the order of the Government of India, Ministry of Finance Department of Expenditure, New Delhi under Annexures-A/1 & A/2 and has laid emphasis on the order dated 16th October, 2006 in OA No. 557 of 2005 (**Mahesh Chandra Mohanty -Vrs- Union of India and others**) (Annexure-A/3).

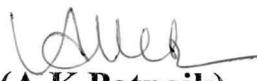
2. I have considered the rival submissions advanced by Mr.G.Rath, Learned Senior Counsel appearing on behalf of the Applicant, Mr.G.C.Nayak, Learned Government Advocate for the State of Odisha and Mr.S.Barik, Learned Additional Standing Counsel for the

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Union of India and perused the pleadings and documents placed on record in support thereof. On the face of the order of the Government of India, Ministry of Finance, Department of Expenditure, New Delhi under Annexures-A/1 & A/2 and the order of this Tribunal **dated 16th October, 2006 in OA No. 557 of 2005** (Annexure-A/3) and pendency of the representations, at this stage, I do not like to keep this matter pending inviting counter reply of the other side. Hence, as prayed for by the Learned Senior Counsel for the Applicant, without expressing any opinion on the merit of the matter, this OA is disposed of at this admission stage calling upon the Respondent No.3 (the Chief Secretary to Government of Odisha, Secretariat, Bhubaneswar, Dist. Khurda) to grant the benefit of 50% merger to the Applicant as per Rules/law in consideration of the representation at Annexure-A/6 within a period of 45 days from the date of receipt of copy of this order and communicate the decision taken in a well reasoned order to the Applicant. No costs.

3. Subject to furnishing the postal requisite within a period of two days, as undertaken by the Learned Senior Counsel for the Applicant, copy of this order along with OA be sent to the Respondent Nos.1 and 3 for compliance.


(A.K. Patnaik)
Member (Judicial)