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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application No. 835 of 2012
Cuttack, this the 21st day of July, 2014

Pramod Kumar Nanda Applicant

-Versus-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?

2. Whether it be referred to PB for circulation?

R.C.

(R.C.MISRA)
Member (Admn.)

A.K.P.
(A.K.PATNAIK)
Member (Judicial)

g/s

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 935 of 2012

Cuttack this the 21st day of July, 2014

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THE HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
THE HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)

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Sri Pramod Kumar Nanda, aged about 58 years, Son of Shri Artatrana Nanda, Village-Harichandanpur Sasan, Po/Ps.Narasinghpur, Dist. Cuttack, presently working as Senior Postmaster, Cuttack GPO, Buxibazar, Cuttack.

...Applicant

(Advocates: M/s. T.K. Mishra, S.K. Sahoo)

VERSUS

Union of India represented through -

1. The Director General of Post, Dak Bhawan, Sansad Marg, New Delhi-1
2. Secretary, Government of India, Ministry of Personnel Public Grievance and Pension (Department of Personnel and Training), North Block, Sansad Marg, New Delhi-11001
3. Chief Post Master General, Orissa Circle, Bhubaneswar.
4. Director of Accounts (Postal), Office of the Director of Accounts (Postal), Department of Post, Mahanadi Vihar, Cuttack-4.

... Respondents

(Advocate: Mr. U.B. Mohapatra)

ORDER

A.K. PATNAIK, MEMBER (JUDICIAL):

The facts and issues involved in this O.A fall in a short compass and is stated that the applicant while working as IRM K-2nd Sub Divison

[Signature]

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was ordered to work as ASRM (Hqrs), BG Divison, Berhampur on ad hoc basis for a period of one year or till a regular arrangement against the post whichever is earlier vide Memo dated 24.5.1996. He was posted in such capacity, purely on temporary and adhoc basis with stipulation that the same will not confer him any right for regular promotion to the said cadre and will not be counted for service seniority etc. The applicant worked in the ASRM cadre uninterruptedly from 05.07.1996 to 21.02.2000, and thereafter while working as such he was promoted on regular basis to the said cadre of ASRM vide order dated 14.02.2000. Since the applicant worked in ASRM cadre on adhoc basis beyond one year ex-post facto approval for regularization of the said adhoc period was sought from the Department of Personnel and Training through Postal Directorate New Delhi. The Department of Personnel and Training did not agree with such proposal for ex-post facto approval of such continuance on adhoc basis beyond one year vide letter dated 12.11.2012. In pursuance of the letter of the DOP&T dated 12.11.2012 the Assistant Director (Staff), Office of the Chief Post Master General, Orissa Cricle, Bhubaneswar issued an order dated 29.11.2012 intimating that the DOP&T did not agree to the proposal for regularization of the entire period of adhoc service of the Applicant. Being aggrieved by the said order of rejection the present O.A. has been filed with the prayer to quash the order dated 29.11.2012 in respect of applicant, to direct Respondent No.2 to pass the Ex-post facto approval in

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respect of applicant from 05.07.1996 to 21.02.2000 and to direct the Respondent Nos.2 & 3 to regularize the adhoc period in ASP Cadre from 05.07.1996 to 21.02.2000.

2. Respondents in their counter have stated that the applicant was promoted to ASRM cadre on adhoc basis for a period of one year or till the regular arrangement is made which ever is earlier. While continuing on adhoc basis he was appointed/promoted to the said cadre on regular basis. Since the continuance of the applicant on adhoc basis was beyond one year without the approval of the DoP&T, ex-post facto approval was sought for regularization of the said adhoc period. But the DoP&T did not agree to convey the ex-post facto approval which was duly intimated to the applicant. In view of the above, the Respondents have prayed for dismissal of this OA.

3. We find that counter has been filed under the caption "counter on behalf of the Respondents" and DoP&T is Respondent No.2 in this OA. In the counter it has been stated that as the DoP&T did not convey the post facto approval for regularization of the adhoc continuance of the applicant beyond one year the applicant is not entitled to the relief claim in this OA. But detailed reason as to why the DoP&T did not agree especially when such approval was given by the DoP&T in respect of another employee as is evident from the documents obtained under the RTI Act and produced by the applicant through rejoinder is conspicuously silent.



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4. Heard. Perused the records. The continuance of the applicant in the ASRM cadre on adhoc basis till his regularization is not in dispute. Though the immediate authority of the applicant was well aware the provisions that without the approval of the DoP&T an employee cannot be allowed to continue in higher post/cadre yet in the instant cadre the applicant was allowed to continue in the ASRM cadre till his regularization. The provision of the DoP&T places an obligation upon the Authorities/Respondents to obtain the approval/concurrence of the DoP&T, in case continuance in the promotional post of an employee, in exigency of service, is absolutely desirable/necessary. The Authorities/Respondents failed to carry out its obligation for any reason whatsoever be it under a mistaken impression or otherwise, the applicant cannot be held responsible in any manner and the ground cannot be allowed to stand in the way of complete justice to the Applicant. Further discrimination is antithesis to Rule of law. However, we find that the order dated 29.11.2012 is the outcome of the order of the DoP&T which has not been challenged in this OA. If this letter dated 29.11.2012 is quashed, the main structure i.e. letter of the DoP&T still remains in the field.

5. In view of the discussions made above, we direct the Respondent Nos. 1 & 3 that notwithstanding the letter dated 29.11.2012, they should send a complete/concrete proposal afresh citing the case of Shri S.K.Bej in whose favour such ex post facto approval has been conveyed,

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enclosing thereto a copy of this order to Respondent No.2 within a period of thirty days from the date of receipt of copy of this order and Respondent No.2 is hereby directed to consider the same and communicate the result thereof in a well-reasoned order to Respondent Nos. 1&3 as well as to the Applicant within a period of sixty days from the date of receipt of the proposal, as directed above. In the result, this OA stands disposed of. There shall be no order as to costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judicial)