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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH, CUTTACK

O.A. No.441 of 2013
Cuttack, this the 15th day of July, 2013

CORAM

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

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1. Nirod Kumar Behera, aged about 58 years, Son of Late Magu Behera, At-Podahanthi, PO. Bharat, Via. Rahama, Dist. Jagatsinghpur presently working as Skilled Work Asst. (SWA) under Central Water Commission Eastern Division Sahid Nagar, Bhubaneswar.
2. Lambodhar Pradhan, aged about 62 years, S/O. Late Bansidhar Pradhan, At-Ramadha, PO. Kharsahanpur, Via-Anantapur, Dist. Balasore, Ex Skilled Work Asst. (SWA) under Central Water Commission, Mahanadi Division Burla, Sambalpur.
3. Hazari Mallick, aged about 60 years, Son of Laxman Mallick, At/Po. Manamunda, Dist. Boudh, Ex-Skilled Work Asst (SWA) under Central Water Commission, Mahanadi Divison Burla, Sambalpur.

....Applicants

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

-VERSUS-

Union of India represented through -

1. Secretary to Government of India, Ministry of Water Resources, Shramashakti Bhawan, Rafi Marg, New Delhi-100001.

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2. The Central Water Commission represented through its Chairman, CWC, Sewa Bhawna, R.K.Puram, New Delhi-110 066.
3. The Chief Engineer (Mahanadi and Eastern Rivers), CWC, Plot No.A-173, Sahid Nagar, Bhubaneswar-751 007.
4. The Executive Engineer, Central Water Commission, Eastern Rivers Division, Plot No. A-13 & 14, Bhoi Nagar, Bhubaneswar, PIN -751 022.
5. The Superintending Engineer, Hydrological Observation Circle, Mahanadi Bhavan, Plot No.A 13/14, Bhoi Nagar, Bhubaneswar, PIN 751 022.
6. The Executive Engineer, Central Water Commission, Mahanadi Divison, Qr.No.SD-7/1, Doctors Colony Burla, Sambalpur, Orissa, PIN-768 017.

.....Respondents

(Advocate(s)-Mr.B.K.Mohapatra)

0 R D E R

(Oral)

A.K. PATNAIK, MEMBER (J):

Having heard Mr.D.K.Mohanty, Learned Counsel appearing for the Applicants and Mr.B.K.Mohapatra, Learned Additional CGSC appearing for the Respondents, MA No.369 of 2013 filed by the Applicants seeking permission to prosecute this OA jointly stands allowed subject to payment of additional fee of Rs.50/- by each Applicant except Applicant No.1 in course of the day. MA is accordingly disposed of.

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2. In so far as Original Application is concerned, we have heard Mr.D.K.Mohanty, Learned Counsel appearing for the Applicants and Mr.B.K.Mohapatra, Learned Additional CGSC appearing for the Respondents and perused the records. In this Original Application, the prayer of the Applicants is to direct the Respondents to antedate/regularize the Applicants with effect from their date of adhoc appointment vide order under Annexure-A/4 series with all consequential service and financial benefits. Next prayer of the Applicants is for direction to the Respondents to grant them all benefits as per Rules/Regulations/Instructions available on the date of their initial engagement as per the decisions of the Hon'ble Apex Court in the cases of **Y.V.Rangaiah and othes Vrs J.Sreenivasa Rao and others**, AIR 1983 SC 852 and **P.Mahendran and other Vrs State of Karnataka and Others**, AIR 1990 SC 405 and Hon'ble High Court of Orissa in the case of **Gayadhar Sahoo Vrs State of Orissa and others** dated 26.4.1991 in OJC No.811/1990. It is the positive case of the Applicants that similarly situated employees have approached this Tribunal in OA No. 363 of 2008 which was disposed of on 22nd



April, 2010 (**Gananath Mallick & Another -Vrs- Union of India & Others**) and in compliance of the order of this Tribunal, the Applicants therein were granted the benefits as prayed for by the applicants in the instant OA No.363 of 2008. Further case of the Applicants is that they have submitted representations praying therein to grant them the benefits as granted to Gananath Mallick and others which was duly forwarded to the Director (Admn.) CWC, R.K.Puram, New Delhi vide letter dated 10.12.20012 but till date they have not received any reply.

3. The Hon'ble Apex Court as early as in 1975 in the case of **Amrit Lal Berry -vrs- CCE**, (1975) 4 SCC 714 , held as under:-

“We may, however, observe that when a citizen aggrieved by the action of a government department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to court.”

In **Inder Pal Yadav v. Union of India**, (1985) 2 SCC 648, the Apex Court has held as under:-

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"... those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by anyone else at the hands of this Court."

In a latter case of **Uttaranchal Forest Rangers' Assn. (Direct Recruit) v. State of U.P.**, (2006) 10 SCC 346, , the Apex Court has referred to the decision in the case of **State of Karnataka vs C Lalitha** (2006) 2 SCC 747 as under:

"29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently."

4. Since representations submitted by the Applicants were forwarded to the competent authority i.e. Respondent No.2 vide letter dated 10.12.2012 (Annexure-A/13 series) and it is the positive case of the Applicants that thereafter they have not received any reply thereon, without expressing any opinion on the merit of the matter, this Original Application is disposed of at this admission stage with direction to the Respondent No.2 to consider and dispose of the representations of the Applicants keeping in mind the earlier order of this Tribunal dated 22nd April, 2010 in



OA No. 363 of 2008 (Gananath Mallick and Anrs –Vrs-UOI & Ors) and the law laid down by the Hon'ble Apex Court quoted above and communicate the decision to the Applicants in a well-reasoned order within a period of 60 days from the date of receipt of copy of this order. There shall be no order as to costs.

5. As prayed for by Mr.Mohanty, Learned Counsel for the Applicants, copy of this order along with OA be sent to the Respondent No.2 for compliance, at his cost for which he undertakes to furnish the required postal requisites by 17.7.2013.



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



(A.K.PATNAIK)
Member (Judicial)