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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH, CUTTACK

Original Application No. 518 of 2013
Cuttack, this the 28th day of August, 2014

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

.....

Sri Fani Bhusan Tripathy, aged about 40 years, S/o. Sri D.N.Tripathy, At-Kaduapara, Po. Kaduapara, Dist. Jagatsinghpur now residing at Sushama Bhawan, Gandarpur, Dist. Cuttack.

...Applicant
(Advocates: M/s.N.Sarkar, A.N.Das, E.A.Das)

VERSUS

UNION OF INDIA represented through -

1. The Director General of Posts, Daktar Bhawan, New Delhi.
2. Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist. Khurda.
3. Senior Superintendent of RMS 'N' Division, Cuttack, At/Po/Dist. Cuttack.

... Respondents
(Advocate: Mr.S.B.Jena)

ORDER **A.K.PATNAIK, MEMBER (JUDL.):**

Facts of the case, in nut shell, are that the father of the applicant who was working as Zamadar, in RMS 'N' Division, Cuttack retired from service on medical invalidation on 30.09.1996 and consequently, the case of the Applicant was considered by CRC and approved for appointment on compassionate ground in relaxation of



the normal Recruitment Rule, as Sorting Assistant in RMS 'N' Division, Cuttack. Applicant was accordingly sent to Postal Training Centre, Dharbhanga on 09.03.1998 for training on payment of stipend. But instead of regular appointment he was given appointment on casual basis against leave vacancy in RRO N Division. Being aggrieved, applicant filed OA No. 335 of 2002 which was disposed of on 08.07.2004 with direction to confer temporary status on the applicant pending regularization of his case. The order of this Tribunal was challenged by him before the Hon'ble High Court of Orissa in WP (C) No.11507/2004. During the pendency of the said Writ Petition, the decision of the Hon'ble Apex Court, on similar issues came into effect in Civil Appeal No.7773 of 2009 disposed of on 30.07.2010 in the case of Union of India & Another –Vrs- M.Nallavan. Relevant portion of the order is quoted herein below:

"In the circumstances, the appellants are directed to regularize the services of all the 202 respondents who are working in the Department against short term/leave vacancies with effect from their date of appointment. However, the respondents shall not be entitled for payment of any arrears on account of such regularization. But their pay and pensionary benefits are protected."

2. Accordingly, the Writ Petition No. 11381 of 2004 was disposed of along with WP (C) Nos.11507, 11508 & 12115 of 2004 in a common order dated 28.9.2010 by the Hon'ble High Court of Orissa. Relevant portion of the order reads as under:



“.....During pendency of these writ petition's, a similar matter came up before the Hon'ble Supreme Court in a batch of Civil Appeals and the principal Civil Appeal Number is 7773 of 2009. On perusal of the judgment of the Madras High Court which was challenged before the Hon'ble Supreme Court as well as the judgment of the Hon'ble Supreme Court in the said SLP,. We find that these petitioners stand on the same footing as that of the respondents before the Hon'ble Supreme Court and prima facie we are of the view that the case of the petitioners is squarely covered by the judgment of the Hon'ble Supreme Court in the aforesaid Civil Appeal.

Accordingly, we set aside the order of the Tribunal impugned before us and direct the opposite parties specially opposite party Nos.2 and 3 to consider the case of the petitioners in the light of the judgment of the Hon'ble Supreme Court in the aforesaid case and pass necessary orders within a period of three months from the date of communication of this order.”

3. It is the case of the Applicant that in compliance of the aforesaid order of the Hon'ble High Court of Orissa his services were regularized prospectively with effect from 27.7.2011 though as per the order of the Hon'ble Apex Court and High Court he was entitled to be regularized retrospectively with effect from 09.06.1998. Further case of the Applicant is that by making representations one after the others he has prayed for regularization and seniority w.e.f. 9.6.1998 but the same was rejected by the Respondents vide order dated 01.07.2013. Hence in the present OA his prayer is to quash the said order of rejection dated 01.07.2013 and to direct the Respondent Nos. 1 & 2 to antedate his date of regularization and grant him all



consequential benefits as per the order of the Hon'ble Supreme Court.

4. Respondents have filed their counter resisting the claim of the Applicant. But we do not feel it necessary to discuss the same elaborately as *prima facie* we find that the present grievance of the applicant is covered by the decision of the Hon'ble Apex Court and Hon'ble High Court of Orissa, referred to above.

5. The maxim "*boni judicis est lites dirimere, ne lis ex lite oritur, et interest reipublicae ut sint fines litium*", casts a duty upon the Courts/Tribunal to bring litigation to an end or at least ensure that if possible, no further litigation arises from the cases pending before the court in accordance with law. This doctrine would be applicable with greater emphasis where the judgment of the court has attained finality and hence the Courts should decide similar cases particularly covered cases expeditiously and in consonance with the law of precedents [Ref. **Special Land Acquisition Officer Vrs Karigowda and Others**, (2010) 5 SCC 708]. Decision rendered on an issue is to be extended to all similarly situated employees is also no more *res integra* (Ref. **K.I. Shepherd and others Vrs. UOI and others**, AIR 1988 (SC), page-686 and **K.C. Sarma and others Vrs. UOI and others**, 1997 9SCC (6) 721).

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6. The above being the position of facts and law, after hearing Mr. N. Sarkar, Learned Counsel for the Applicant and Mr.S. B. Jena, Learned Additional CGSC we quash the order of rejection dated 01.07.2013 and direct the Respondent Nos. 1 & 2 to consider antedating the date of regularization, as claimed by the Applicant, in the light of the order dated 30.07.2010 in Civil Appeal No.7773 of 2009 disposed of on 30.07.2010 (Union of India & Another –Vrs- M.Nallavan) & the Hon'ble High Court of Orissa dated 28.09.2010 in Writ Petition No. 11381 of 2004 & WP (C) Nos.11507, 11508 & 12115 of 2004 and communicate the result thereof to the applicant within a period of 90(ninety) days from the date of receipt of copy of this order.

7. In the result, with the aforesaid observation and direction this OA stands disposed of. MA is also accordingly disposed of. There shall be no order as to costs.

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

(A.K.PATNAIK)
Member (Judl.)