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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO.604 OF 2013

Cuttack the 6th day of September, 2013

CORAM

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

Ashok Kumar Behera,
Aged about 45 years,
Son of Nursingh Charan Behera,
At-Guhali, Po-Kunal, Dist-Jajpur,
At present working as ACT, Zonal Office,
NYKS, at Bhubaneswar.

...Applicant

(Advocates: M/s. M. Basu, S. Debadas, M.Kanungo, S. Brahma)

VERSUS

Union of India Represented through

1. Secretary,
Ministry of Youth Affairs & Sports,
C. Wing, Sastri Bhawan,
New Delhi-110001
2. Nehru Yuva Kendra Sangathan,
Represented by its Director General,
Core-IV, 2nd Floor, Scope Minar Complex,
Laxmi Nagar District Centre,
Vikash Marg, New Delhi-110092
3. The Zonal Director (P.A.O.),
Nehru Yuva Kendra Sangathan,
Zonal Office, N-2/45, IRC Village,
Dist-Khurda-751015.
4. The Zonal Director,
Nehru Yuva Kendra Sangathan,
Zonal Office, N-2/45, IRC Village,
Dist-Khurda-751015.

... Respondents

(Advocate: Mr. R.C. Behera)

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ORDER(Oral)

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

The applicant who is at present working as ACT in the Zonal Office of Nehru Yuva Kendra Sangathan (NYKS) at Bhubaneswar has filed this O.A. stating inter-alia that he was initially joined as a Group -D employee in the post of Runner as per offer of appointment issued on 05.09.1988. Thereafter, he became Accounts Clerk-cum-Typist w.e.f. 10.08.1994. He was regularized as per the order dated 4th / 8th July 2008 with effect from his initial date of joining in Group - D post. It is the further case of the applicant that by making representations the applicant has prayed for extension of pension benefit as per the CCS (Pension) Rules 1972 as has been allowed to 393 employees of the NYKS in compliance of the orders of the Hon'ble Supreme Court dated 12.07.07 passed in Civil Appeal Nos.7356 and 7357/2000. Having received no reply on the said representation for the pensionary benefits as was granted to other similarly placed employees working in Respondent's Organisation, the applicant has approached this Tribunal in O.A. No.1138/12. The said O.A. was disposed of by this Bench on 09.01.2013 directing the Respondents to consider the pending representation on the ground that the applicant is an employee of an autonomous body as such he was authorized for the pay and allowance as per the Rules and Regulations governing the field. The Respondents' submitted that the Rules and regulations of NYKS of whom the applicant is an employee did not have any provisions for pension for its employees on Government of India pattern. Further Government of India has not approved the introduction of pension at par with the Government of India pattern for the employees of the autonomous bodies under various Ministries / Departments. It has been stated that the applicant is covered

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under the EPF Pension Scheme and accordingly, he was entitled to certain benefits from the office of Regional Provident Fund Commissioner. As regards extension of benefits in pursuance of the Hon'ble Supreme Court order dated 12.07.07, it has been stated by the Respondents that the applicant is not entitled to any benefit pursuant to the order of the Hon'ble Supreme Court as he was not a party to the Civil Appeal Nos.7356 and 7357/2000.

2. In the above context, by filing the instant O.A. the applicant has prayed to quash the order dated 13.03.13 (in which the representation is rejected) and direct the Respondents to give him pensionary benefits as has been granted to other similarly situated employees of the NYKS.

3. Copy of this O.A. has been served on Sri R.C. Behera, Ld. Addl. Central Government Standing Counsel Union of India appearing on behalf of the Respondents. We have heard Sri M. Basu, Ld. Counsel for the applicant and Sri R.C. Behera, Ld. Addl. Central Government Standing Counsel appearing on behalf of the Respondents.

4. The issue involved in this O.A. to decide as to whether the present case falls within the scope and ambit of the judgment rendered by the Hon'ble Supreme Court of India in Civil Appeal Nos.7356 and 7357/2000 (Supra) and whether the applicant is similarly situated to that of the applicants before the Hon'ble Apex Court.

5. In the order dated 13.03.13 nowhere it has been mentioned by the Respondents that the applicant is not entitled to the relief claimed by him as he was not a similarly situated employee at par with the applicants before the Hon'ble Supreme Court of India and Hon'ble High Court of



Kerala. Rather, we find that the Respondents have rejected the case of the applicant on the ground that the applicant was not a party in the cases filed before the Hon'ble Supreme Court and Hon'ble High Court of Kerala. Therefore, it is to be determined whether in the aforesaid circumstances the applicant is entitled to the relief as claimed by him in the present O.A. In this regard reliance is placed ^{on} ~~to~~ some of the decisions of the Hon'ble Apex Court which are stated herein below:

6. The main concern of the court in such matters is to ensure the rule of law and to see that the Executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16 – **State of Harayana Vrs. Piara Singh and Others**, AIR 1992 SC 2130.

7. It is expected from the State that none of its action should be discriminatory and violative of the fundamental rights envisaged in the Constitution. If in between two similarly circumstanced persons one is given the consequential financial and other service benefits and the other is denied of the same it definitely amounts to discrimination and violative of Articles 14 and 16 of the Constitution – **Subodh Chandra Debanath v. Union of India and others** – 2006 (1) OLR 812.

8. Service jurisprudence evolved by the Hon'ble Apex 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. The logic advanced by the Respondent-Department in the impugned order cannot stand in the litmus test of judicial scrutiny because it is trite law that as a benevolent employer, the authority cannot create a



situation compelling each and every employee to approach the Court for the same relief as has been granted to another employee on the same subject in compliance with an order which has reached its finality. Once a judgment had attained finality, it could not be termed as wrong, and its benefit ought to have been extended to other similarly situated persons (Ref: **Maharaj Krishan Bhatt and Another Vs. State of Jammu and Kashmir and others** (2008) SCC (L&S) 783).

9. On examination of the facts in the present case with reference to the law laid down by the Hon'ble Apex Court quoted above, though the Applicant was not a party to the said case he cannot be deprived of the benefits of the decision of the Hon'ble Apex Court on similar issues. We therefore, find sufficient justification to quash the order of rejection dated 13.03.13 and remit the matter back to the Respondents to give a fresh look to the grievance of the applicant in the light of the decision of the Hon'ble Apex Court and Hon'ble High Court of Kerala based on which relief ^{was} ~~were~~ granted to those applicants and pass necessary orders and communicate the decision to them in a well reasoned order within a period of 60 (sixty) days from the date of receipt of this order. In the result this O.A. stands allowed to the extent stated above. No order as to costs.


(R.C. MISRA)
ADMN. MEMBER


(A.K. PATNAIK)
JUDICIAL MEMBER