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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH:CUTTACK

OANo.725 of 2013
Cuttack, this the 2nd day of January, 2014

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

Prafulla Kumar Mishra, aged about 58 years, S/o. Bhagaban Mishra, OFS-1, at present Asst. Chief Conservator of Forests, Kendu Leaf, O/O the Principal CCF, Kendu Leaf Odisha, At-Aranya Bhavan, Chandrasekharpur, Bhubaneswar-751023, Dist. Khurda.

....Applicant

(Legal Practitioner: M/s.Rabinarayan Nayak, N.K.Sen,
G.N.Rout, H.K.Rout, H.R.Singh)

Versus

UNION OF INDIA REPRESENTED THROUGH-

1. The Director, Ministry of Environment and Forests, At-Paryavaran Bhavan, Lodhi Road, New Delhi-110003.
2. The Secretary, Union Public Service Commission, At-Dholpur House, Sahajan Road, New Delhi-110 069.

Government of Odisha represented through –

3. The Chief Secretary, At- Odisha Secretariat, Bhubaneswar-751 001, Dist. Khurda.
4. The Principal Secretary, Forest and Environment Department, At- Odisha Secretariat, Bhubaneswar-751 001, Dist. Khurda.

.....Respondents

(Legal practitioner: Mr.U.B.Mohapatra,Mr.G.C.Nayak and Mr.P.R.J.Dash)

O R D E R (Oral)

A.K.PATNAIK, MEMBER (JUDICIAL):

Heard Mr.Rabinarayan Nayak, Learned Counsel, appearing for the Applicant, Mr.G.C.Nayak, Learned GA appearing for Respondent Nos. 3 & 4 and Mr.P.R.J.Dash, Learned Additional CGSC appearing for Respondent No.2. Mr.Nayak submitted that copy of this OA has been served



on Mr.U.B.Mohapatra, Learned Senior CGSC for the Union of India, for and on behalf of Respondent No.1. Registry is directed to serve notice in terms of sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987.

2. By drawing our attention to the materials placed on record, it was contended by Mr.Nayak that on 31.12.2008 meeting of the selection committee was held for selection of State Forest Service Officers to IFS cadre ~~again~~^{against} the vacancies of the year 2004-2008. The name of the applicant was placed in the select list of 2004, 2005 and 2007 but inclusion of the name of the applicant was made provisional. The select list was approved by the UPSC on 30.04.2009. Promotion notification of SFS Officers to IFS cadre was issued on 30.7.2009 in which the name of the applicant could not find place due to pendency of disciplinary proceedings. It has been contended that the said disciplinary proceedings were quashed by the State Administrative Tribunal, Cuttack Bench vide order dated 24.7.2013 in OA No. 847 (C) of 2012. It has been submitted that after the order dated 24.07.2013 in OA No.847 (C) of 2012 by making representation to the Respondent No.4 on 02.09.2013 the applicant has sincerely prayed to give effect to the Notification No. 17013/18/2008 IFS dated 30.04.2009 (Select List 2004) and copy of the said representation was also sent to Govt. of India, MOEF, New Delhi and UPSC, New Delhi for necessary action. By drawing our attention to the letter dated 11.10.2013 Mr.Nayak submitted that the representation was also forwarded by the office of the PCCF (KL),



Odisha, Bhubaneswar to Respondent No.2 for taking early action in the matter. It has been contended that the applicant will retire from service on attaining the age of superannuation w.e.f. 31.1.2014 and in case he is appointed/promoted to IFS he will continue in service for another two years.

But despite ^{the fact} the Disciplinary Proceedings are set at rest and despite submission of representation dated 02.9.2013 till date neither final notification has been issued nor has he been communicated any reply thereon. Hence by filing the instant OA, the Applicant has prayed for a direction to the Respondent Nos.1 to 4 to declare his 'provisional' selection as 'unconditional' and promote him to IFS with effect from the date of promotion of his juniors i.e. 30.07.2009. Mr.Nayak and Mr.Dash have fairly submitted that they do not have any instruction on the representation dated 02.09.2013, if at all submitted by the applicant and any action taken thereon. But Mr.Nayak sincerely prayed for issuance of interim order prayed for in this OA especially keeping in view of the ensuing date of retirement of the Applicant. As it is the specific case of the applicant that he has received no reply on the representation submitted by him and keeping in mind the ensuing date of retirement of the Applicant, without entering into the merit of the matter, this OA is disposed of at this admission stage with direction to the Respondents to take a view thereon and communicate the decision in a well reasoned order to the Applicant as expeditiously as possible preferably within a period of three weeks from the date of receipt of copy of this order.

DAO

3. On the prayer of Mr.Nayak copy of this order be sent to Respondent No.1, & 4 by speed post at his cost for which he undertakes to furnish the postal requisite in course of the day.

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

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