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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00413 OF 2014
Cuttack the 4th day of June, 2014

CORAM
HON'BLE MR. R.C. MISRA, MEMBER (ADMN.)

Sri Surendranath Dash,
aged about 52 years,
S/o: Sri Punananda Dash,
Vill./P.O. Samanga,
P.S./Dist.:Jagatsinghpur,
Presently working as Accountant
Cuttack G.P.O., Buxi Bazar,
Town/Dist.Cuttack-753001.

(Advocates: M/s - S.K. Ojha, S.K. Nayak)

...Applicant

VERSUS

Union of India Represented through

1. The Secretary to the Government of India- Cum-Director General (Posts),
Ministry of Communications & IT,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi-110 001.
2. Director (Budget & Administration),
Department of Posts,
PA Wing, Dak Bhawan,
New Delhi-110 001.
3. Chief Postmaster General,
Odisha Circle, P.M.G. Square,
Bhubaneswar,
Dist-Khurda-751001.
4. Senior Supt. of Post Offices,
Cuttack City Division,
15-Cantonment Road,
Cuttack-753001.

(Advocate: M/s. (S.B. Jena))

S. Barick

Ranu

... Respondents

ORDER(Oral).R.C.MISRA, MEMBER(A)

1. Heard Shri S.K.Ojha, learned counsel for the applicant and Shri S.Barik, learned ACGSC, on whom copy of this O.A. has been served appearing for the Respondents, on the question of admission.

2. Applicant in this case is presently working ^{as} Accountant in Cuttack GPO under the Department of Posts. He had appeared in an examination for selection as JAO renamed as AAO in the year 2012 as against the selection notification dated 14.9.2012. The result of this examination was announced on 4.6.2013, but the name of the applicant was not found in the select list. Therefore, applicant made an application through RTI Act to get his answer papers as well as key answers. It is the case of the applicant that instead of getting 30 marks, he had got 03 marks only in Part-VI Question No.4 of this examination, even though the answers tallied with the key answer. He made a representation dated 6.5.2014 addressed to Respondent No.2, i.e., Director,(B&A),Dak Bhawan, New Delhi through Respondent No.4, who is his immediate authority. However, Respondent No.4, without forwarding his representation to Respondent No.2 communicated to the applicant on 28.5.2012 that because of the instructions contained in 28.5.2014 Directorate's letter dated 2.8.2010, representation seeking re-evaluation of a question already evaluated by the examiner shall not be forwarded to the Directorate. Accordingly, it was intimated to the applicant that his representation dated 6.5.2014 addressed to the Directorate (B&A), Dak Bhawan, New Delhi is filed at CO end. This order dated 28.5.2012 is at Annexure-A/6 of the O.A. which 28.5.2014 has been challenged by the applicant. Applicant has filed circular dated 2.8.2010

at Annexure-A/7 of this O.A., in which a direction has been issued by the Assistant Director General (DE) that all pending representations received from the applicants seeking re-evaluation of answer papers covered under Item -(iv) of Para-3 above, may be disposed of at the divisional/regional/circle level, as the case may be, without forwarding the same to this office. The learned counsel for the applicant has challenged the vires of this circular by submitting that this is not a rule framed under Article-309 of the Constitution, but merely an executive instruction. By issuing this executive instruction, Department of Posts have deprived the applicant of his right to avail of the departmental remedies before the appropriate authority for redressal of his grievance. He has also pointed out that Section 20 of the A.T.Act, 1985 lays down that departmental remedies should be exhausted before an application is entertained by the Tribunal. Here is a case where the departmental authorities are refusing to look into the grievances.

3. On the other hand, learned ACGSC for the Respondents, Shri S.Barak submitted that Respondent No. 4 is bound by the instructions issued by the authorities superior to it ^{in the} hierarchy of the Department and therefore, he has acted as per the directives of his higher authorities. While accepting the position that any administrative authority ^{is} bound to obey orders issued by the higher authorities, it is to be noted that every employee has a right to make a representation to the competent authority for redressal of his grievances. On the other hand, the concerned administrative authorities are also duty bound to consider and dispose of the representation as per extant rules and regulations.

Therefore, existence of the circular letter dated 2.8.2010 should not prevent the departmental authorities, viz., Res.No. 4 from forwarding the representation to Respondent No.2 for consideration and disposal. On the other hand, Respondent No.2, if it has received any representation directly from the applicant should also dispose it of as per the provisions of rules.

4. Considering the submission of the learned counsel for both the sides, I direct Respondent No. ^{3 and 4} to forward the representation of the applicant to Respondent No.2, within a period of one week from the date of receipt of this order and Respondent No.2 is also directed to consider and dispose of the said representation as per rules within a period of four weeks from the date of receipt ^{the representation} ~~of copy of this order~~. Ordered accordingly.

5. With the above observation and direction, this O.A. is disposed of. No costs.

6. As agreed to by learned counsel for both the sides, send copy of this order ^{3 R} along with paper book to Respondent Nos. 2 and 4 at the cost of the applicant for which Shri Ojha undertakes to file the postal requisite by 5.6.2014.

Free copy of this order be made over to the learned counsel for both the sides.


R.C.MISRA
MEMBER(A)

BKS