

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00844 OF 2014
Cuttack, this the 25th day of November, 2014

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

.....
Prafulla Kumar Mishra,
aged about 59 years,
S/o- Bhagaban Mishra,
OFS-I (Retd.), At present residing
at Hi-tech Plaza, Qr. No.05/02,
Block-D/7, Sundarpada,
Bhubaneswar-751002, Dist-Khurda.

.....Applicant
Advocate(s)-M/s- R. Nayak, N. K. Sen, G. Rout, A.K. Patra,

VERSUS
Union of India, represented through

1. Director,
Ministry of Environment and Forests,
At-Paryavaran Bhavan,
Lodhi Road, New Delhi-110 003.
2. Secretary,
Union Public Service Commission,
At-Dholpur House,
Sahajan Road,
New Delhi-110069.
3. Government of Odisha,
Represented through the Chief Secretary,
At-Odisha Secretariat,
Bhubaneswar-751001,
Dist-Khurda.
4. Principal Secretary,
Forest and Environment Department,
At-Odisha Secretariat,
Bhubaneswar-751001,
Dist-Khurda.

..... Respondents

Advocate(s).....Mr. U.B.Mohapatra, SrCGSC, Mr. G.C.Nayak, G.A. State

.....



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

Applicant, who has retired on OFS Class-I officer of Orissa State Forest Service, has filed this O.A. with the following reliefs:

“...to admit the case, issue notice to the respondents and after hearing the parties, direct Resp. No. 1 to 4 to declare the “Provisional” selection of the applicant as “unconditional” in views of the order dtd. 24.07.2013 of the State Administrative Tribunal in Anenxure-10 and effect the promotion of the applicant to I.F.S. Cadre with effect from the date of promotion of his juniors i.e. 30.07.2009 vide Anenxure-6 within a stipulated time.”

2. The case of the applicant in nutshell is that he had joined as Asst. Conservator of Forests in O.F.S. Class-II of State Forest Service and, subsequently, promoted to the rank of Dy. Conservator of Forests in O.F.S. Class-I Cadre on 03.06.2004. Though his name finds place in the Select List of 2004, 2005 and 2007 for promotion to the I.F.S. Cadre, this has been termed as provisional on the ground of pendency of the disciplinary proceedings initiated against him on 28.06.2005. Vide Notification dated 30.07.2009 some of his juniors have been selected and promoted to I.F.S. by the Govt. of India, Ministry of Environment and Forests ignoring him.

3. Mr. R. Nayak, Ld. Counsel for the applicant, submitted that since the crucial date for consideration of vacancy for promotion to I.F.S. cadre for the years 2004 and 2005 was 1st January of 2004 and 2005 respectively and at that point of time no disciplinary proceedings were initiated against the applicant, he was very much eligible for the promotion. The applicant filed O.A. No. 847/12(C) before the



State Administrative Tribunal, Cuttack Bench, which was disposed of on 24.07.2013 with the following directions to the Departmental Authorities:

“.....to complete the aforesaid disciplinary proceeding against the applicant in all respect prior to his retirement, i.e. at the latest by 31.08.2013, failing which the said disciplinary proceeding shall be deemed to have been quashed.”

Since no action was taken by the Respondents within the time stipulated by the Odisha Administrative Tribunal, Cuttack Bench, the applicant moved this Tribunal in O.A. No. 725/2013 for his promotion to I.F.S. cadre as per the Select List of 2004, 2005 or 2007. The said O.A. was disposed of by this Bench of the Tribunal vide order dated 02.01.2014 directing Respondents to take decision on the representation of the applicant within three weeks. It is submitted by the Ld. Counsel for the applicant that since no decision was taken by the Respondents, he filed Contempt Petition No. 12/14. He submits that, in the meantime, Respondents filed Writ Petition (C) No. 9040/2014 before the Hon’ble High Court of Orissa challenging the order dated 24.07.2013 passed by the OAT. In the meantime, applicant’s representation has been disposed of without indicating the decision taken for his promotion to I.F.S. cadre. Being aggrieved, the applicant has moved this Tribunal in the present O.A. with the prayer as quoted above.

4. Copies of this O.A. have been served on Mr. U.B.Mohapatra, Ld. Sr. Central Govt. Standing Counsel appearing for the Union of India, and Mr. G.C.Nayak, Ld. Govt. Advocate for the State of Orissa, who opposed the maintainability of this O.A.

W.Dee

5. We have considered the rival submission of the parties and perused the records. We find that the sole prayer of the applicant in this O.A. is to direct Respondent Nos. 1 to 4 to declare the "Provisional" selection of the applicant as "Unconditional" in views of the order dtd. 24.07.2013 of the Odisha Administrative Tribunal and effect the promotion of the applicant to I.F.S. Cadre with effect from the date of promotion of his juniors, i.e. 30.07.2009, within a stipulated time. In our considered view, as the order dated 24.07.2013 of the Odisha Administrative Tribunal is under challenge, as submitted by the Ld. Counsel for the applicant, before the Hon'ble High Court in W.P(C) No. 9040/14, and no final order has been passed till date, at this stage it is premature to accede to the prayer made by ~~to~~ the applicant based upon the order of the Odisha Administrative Tribunal. Accordingly, this O.A., at this stage, being premature, is dismissed. No costs.


(R.C.MISRA)
MEMBER(Admn.)


(A.K.PATNAIK)
MEMBER(Judl.)

RK