

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA.

O.A. No. 284 of 2006 with MA 435 of 07

C O R A M

Hon'ble Mrs. Justice Rekha Kumari, Member [ J ]  
Hon'ble Mr. Sudhir Kumar, Member [ A ]

Ram Nath Yadav, S/o Uchit Yadav, presently posted as Assistant Executive Engineer, Middle Ganga Upper Kiul Sub-division, Central Water Commission.

....Applicant

By Advocate : A.N. Jha

Vs.

1. The Union of India, through Secretary, Ministry of Water Resources, Shram Shakti Bhavan, New Delhi.
2. The Secretary, Ministry of Water Resources, Shram Shakti Bhavan, New Delhi.
3. The Chairman, Central Water Commission. Seva Bhavan, R.K. Puram, New Delhi.

....Respondents.

By Advocate : Shri S.C. Jha

O R D E R [ Oral ]

16.09.2009

Sudhir Kumar, M [ A ]:- The applicant has filed one MA 435 of 07 for condoning the delay in filing the Original Application. The MA is allowed, and the delay, if any, is condoned.

2. The learned counsel for the applicant has submitted that in course of argument earlier, he has already stated that he is willing to withdraw the reliefs No. 8 [ iii ] and 8 [ iv ] as below:-

"Para 8 [ iii ]:- That the applicant is entitled for the pay scale of AEE/AD as the regular work of the said post has been taken from ......

him and he possesses the requisite qualification for the said post and denying such entitlement to the applicant would amount to discrimination and arbitrariness and violative of Article 14 and 16 of the Constitution of India.

Para 8 [ iv ]:- That the applicant should get the benefit of regular promotion to the post of AEE/AD since 8.9.99 when he was promoted on the post on adhoc basis, instead of getting the regular benefit of the promotion from 28.2.03 as his promotion was done against the vacancy which arose from 1995 to 2003 due to non-convening of DPC for 6 years from 1997 to 2003."

3. He, however, prays that since he has worked against the higher post for substantial amount of time, <sup>and</sup> that has been borne out by the records maintained by the respondents, he should be allowed such higher remuneration for having worked in the higher post, as admissible under the rules, and as prayed for by him in para 8[ i ] and 8 [ ii ] as below :-

"Para 8 [ i ]:- That the applicant seeks higher pay/scale of AEE/AD since 1985 to 1999 when he performed the work as regular work and not in the capacity of additional or incharge of the said post of AEE/AD.

Para 8 [ ii ]:- That the applicant may be given the higher pay scale / benefit in the cadre of AEE/AD as he was taken the work of the said post since 1985 to 1999 for which he is entitled according to the principle of equal pay for equal work envisaged in Article 39 of the Constitution of India."

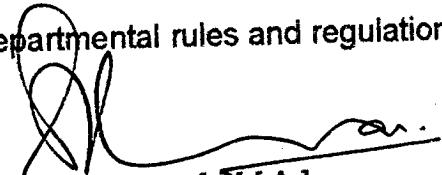
4. The learned counsel also cited a decision of CAT, Principal Bench, New Delhi of similar nature.

5. The learned counsel for the respondents states that if the issue is

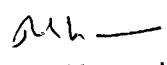


not of re-opening the matter of seniority and re-fixing the seniority, as had been prayed for by the applicant in para 8 [ iii ] and 8 [ iv ], and since it ~~goes down~~ <sup>is apparent</sup> on record that the applicant has worked in higher capacity, the respondents would have no objection to consider his prayer, as sought for in para 8 [ i ] and 8 [ ii ], as cited above and disburse the amount due to him, as per rules and instructions of the department.

6. In the light of this, this OA is allowed, and the respondents department is directed to consider the reliefs admissible to the applicant, as per departmental rules and regulations. *No costs.*



[ Sudhir Kumar ] M [ A ]



[ Rekha Kumari ] M [ J ]

/cbs/