

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

[Circuit Court at Ranchi]

O.A./051/00652/2018

Date of order : 14th September, 2018

C O R A M

THE HON'BLE MR. A.K. PATTNAIK, MEMBER(J)
HON'BLE MR. PRADEEP KUMAR, MEMBR (A)

Dr. Pradeep Kumar, aged about 60 years, son of Late Nand Lal, Resident of E/2, Khaprail Officers Colony, Meyers Road, Opposite Raj Bhawan, P.O. – Ranchi University, P.S.-Kotwali, presently posted as Commissioner, Santhal Pargana Division, P.O., P.S. and District – Dumka.

..... Applicant.

By Advocate : Shri Rupesh Kumar.

Vrs.

1. Union of India, Ministry of Personnel, Public Grievances and Pension, through the Secretary, Department of Personnel and Training, North Block, P.O.-Baroda House, District – Central Delhi, P.S.-North Block, New Delhi – 110001.
2. The Chief Secretary, State of Jharkhand, having its Office at Project Building, Dhurwa, P.O. and P.S. Dhurwa, District, Ranchi – 834004.
3. Principal Secretary, Department of Personnel and Administrative Reforms and Raj Bhawan, Government of Jharkhand, having its office at Project Building, Dhurwa, P.O. and P.S. Dhurwa, District – Ranchi – 834004.

..... Respondents.

By Advocate : Shri H.K. Mehta, 1d. Sr.S.C. for UOI.

Shri R.A. Gupta, 1d. Sr. Adv. For State of Jharkhand.

ORDER
[O R A L]

Per A.K. Pattnaik, J.M.:- Heard Shri Rupesh Kumar, learned counsel for the applicant, Shri H.K. Mehta, learned Sr. Standing Counsel for Union of India and Shri R.A. Gupta, learned Sr. Advocate for State of Jharkhand.

2. As per submission of the learned counsel for the applicant, the officers equivalent to the applicant viz. Amrendra Pratap Singh (IAS, 1991), Shailesh Kumar Singh (IAS, 1991) and Juniors viz, Avinash Kumar (IAS, 1993), Nidhi Khare (IAS, 1992), have all been promoted to the Rank/Grade of Principal Secretary in the Government of Jharkhand. The Department of Personnel & Training, Government of India issued a memo dated 14.09.1992, which provides for promotion of Government servant against whom disciplinary/Court proceedings are pending or whose conduct is under investigation, taking into consideration factors like, whether the promotion of the Officer will be against public interest?, whether the charges are grave enough to warrant complete denial of promotion?, whether there is any likelihood of the case coming to a conclusion in the near future?, whether the delay in finalization of proceedings, Departmental or any Court of Law is not directly or

indirectly attributable to the Government Servant concerned?, and whether there is any likelihood of misuse of official position which the Government Servant may occupy after ad-hoc promo, which may adversely affect the conduct of the Departmental case/criminal prosecution?

The aforesaid guidelines as prescribed under the Office Memorandum dated 14.09.1992 was reiterated by another letter bearing reference no.F.No.20011/5/2014-AIS-II of the Government of India issued by the Department of Personnel and Training on 15.10.2015.

Learned counsel for the applicant further submitted that under the aforesaid given facts and circumstances particularly in the light of the fact that juniors of the applicant have been granted promotion to the Grade and Rank of Principal Secretary, the applicant made several request and representations before the respondent No.1 and lastly on 08.02.2018. The applicant has nowhere indulged in any kind of an activity which could be termed as delaying in finalization of the proceedings before the Court of Law.

It is further stated that in the light of the huge number of witnesses involved to be examined on behalf of the prosecution, there is

no likelihood of the pending criminal cases to conclude in the near future. In the meantime, applicant has superannuated on 31.07.2018. He further submitted that applicant is fulfilling all the eligibility criteria for promotion to the Grade and Rank of Principal Secretary and the same is also evident from the fact that juniors to the applicant have already been granted promotion to the aforesaid rank.

3. Shri R.A. Gupta, learned counsel for State of Jharkhand is present and heard at length and raised a series of objection by stating that the applicant is a thoroughly corrupt officer and he spent quite a reasonable time in judicial custody.

4. Heard the parties.

5. On perusal of the documents, we find that the applicant had already preferred a representations dated 08.02.2018 under Annexure – A/4 to the respondent No.3, which is still pending. Therefore, we think it appropriate to dispose of this O.A. with a direction to respondent No.3 to consider the representation so preferred by the applicant within a period of six weeks from the date of receipt of this order, and after such consideration, if the applicant's grounds and grievance are found to be genuine, then expeditious steps may be taken within a period of further three months from the date of such consideration to extend the benefits

of promotion to the applicant from the date his immediate juniors was granted the benefit.

6. With the aforesaid observations/directions, this O.A. is disposed of. As prayed for by the learned counsel for the applicant Shri Rupesh Singh, a copy of this order along with copy of O.A. in prescribed format be submitted to respondent No.3 by Speed Post for which the applicant will deposit the cost with the Registry within a period of seven days. No costs.

[Pradeep Kumar]/M(A)

[A.K. Pattnaik]/M/(J)

sk/s/-