

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 626 of 2012

Date of order : 16.5.2019

**Present: Hon'ble Mr.Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

Bijaya Chandra Sahu, aged 57 years, S/o Late Govinda Sahu, resident of Sandha Mohanty Street, Berhampur-6, Dist. – Ganjam, Odisha – 766006, presently working as MTS, Chhatrapur HO, At/PO- Chhatrapur, Dist. – Ganjam, Odisha – 761020.

.....Applicant

VERSUS

1. Union of India, represented through its Secretary cum Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi – 110001.
2. Post Master General, Berhampur Region, At/PO- Berhampur, Dist. – Ganjam – 760001.
3. Sr.Superintedent of Post Offices, Berhampur Divsiion, At/Post – Berhampur, Dist. – Ganjam, Odisha – 760001.
4. Chief Post Master General, Odisha Circle, At/PO – hubaneswar, Dist. – Khurda – 751001.

.....Respondents.

For the applicant : Mr.N.R.Routray, counsel

For the respondents: Mr.D.K.Mallick, counsel

O R D E R (ORAL)

Per Mr.Gokul Chandra Pati, Member (A)

Heard learned counsel for the applicant and the respondents. Applicant's counsel submitted that on a similar set of facts as in the present OA, Ernakulum Bench of this Tribunal has disposed of OA 20/2015 vide order dated 15.2.2016 copy of which was submitted earlier by the applicant's counsel in which the following direction was given :

"7. After hearing both sides this Tribunal is of the view since the limited prayer of the applicant is to treat the date of arising of the vacancy of the posts retrospectively as their date of posting for the purpose of pension, it appears to this Tribunal that the OA can be allowed as no other third party interest is put in jeopardy and as the applicants will not be eligible for other benefits like pay for the aforesaid period. Hence it is declared that the applicants are deemed to have been appointed from the date the vacancy arose and that they shall be included in the CCS (Pension) Rules 1972. Respondents are directed to collect necessary subscription under the Provident Fund Rules and the contributions collected from the applicants under the new pension scheme shall be credited to their general provident fund account. It is made clear that no other financial benefits including increments and back wages have been granted to the applicants for the aforesaid period."

2. He submitted that for the present the applicant's grievance will be addressed if a direction is given to the respondents to dispose of the representation of the applicant dated 24.1.2012 which is pending as on date, by the respondent No.2 in the light of the decision of the Ernakulum Bench of the Tribunal as referred above.

3. Learned counsel for the respondents objected to the submissions by applicant's counsel stating that the applicant will not be entitled for the relief for the reasons mentioned in the counter.

4. It is seen that in para 4.13 the applicant had mentioned about the fact that he has submitted a representation which has not been denied by the respondents. It is seen in para 8 of the counter it is stated that in pursuance of the representation, the review DPC was held and the case of the applicant to ante-date the promotion w.e.f. August 2002 was not recommended. Copy of the review DPC is enclosed at Annexure R/2 of the counter. It is seen from Annexure R/2 that the only reason for rejecting the claim of the applicant was shown to be due to non-convening of the DPC from 19.4.2002 to 28.2.2005 as there was no approval from the competent authority for the same. It is clear that by taking a decision the details of the applicant's case have not been considered.

5. In view of the above facts and submissions of learned counsel for the parties, the OA is disposed of with a direction to the respondent No. 2 to reconsider the representation dated 24.1.2012 in the light of the order dated 15.2.2016 of Ernakulam Bench of the Tribunal passed in OA No. 20/2015 and communicate the speaking and reasoned order to the applicant within a period of three months from the date of receipt of the copy of this order.

6. The OA is accordingly disposed of. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

I.Nath

