

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14859 of 2009

Sri Aswatthama Mohapatra

Petitioner

Mr. K.C. Kanungo, Advocate

-versus-

Secretary, Ministry of Agriculture,
Govt. of India and others

Opp. Parties

Mr. C.K. Pradhan, CGC

CORAM:

THE CHIEF JUSTICE

JUSTICE R.K. PATTANAİK

ORDER

16.02.2022

Order No.

03.

1. The challenge in the present petition is to two orders for the Central Administrative Tribunal, Cuttack Bench, Cuttack (CAT). One is to an order dated 24th March, 2005 whereby O.A. No.31 of 2003 filed by the present Petitioner was dismissed by the CAT. The prayer of the Petitioner before the CAT was that the Opposite Parties should grant the Petitioner, who was working as Junior Computer in the Central Poultry Breeding Farm, Bhubaneswar the benefit of the recommendation of the 5th Central Pay Commission as well as the Assured Career Progression Scheme (ACP). The second order to be challenged is the CAT's order dated 11th September, 2009 whereby the Petitioner's review petition was dismissed.

2. While working as Junior Computer in his parent organization as mentioned above, the Petitioner was sent on deputation to the Department of Agriculture and Cooperation in the post of Senior Computer at higher pay scale. While on deputation, the Petitioner

was redesignated as Data Entry Operator, Grade-B in the scale of pay of Rs.1350-2200/-.

3. On completion of deputation, the Petitioner was repatriated with effect from 24th October, 1995 to his parent organization. Thus, he recommenced duty as Junior Computer in the scale of pay of Rs. 950-1500/-.

4. While restructuring of the organization took place, the Petitioner's post was considered as a stand-alone post and somehow therefore the post of Junior Computer was not included for such restructuring.

5. The CAT in its original impugned order dated 24th March, 2005 as well as the subsequent order dated 11th September, 2009 dismissing the review petition has held that the Petitioner's post not being a promotional post, the prayer for enhancement of his pay and grant of benefit of the ACP was not entertainable.

6. Despite service of notice, none appears for the Opposite Parties. Mr. C.K. Pradhan, learned counsel appearing on behalf of Mr. P.K. Parhi, learned ASGI states that the file was misplaced.

7. Be that as it may, considering the case is of the year 2009, the Court does not consider it appropriate to keep the petition pending. At the same time, despite the Petitioner's post being a 'isolated' 'stand-alone' one, there is no rational basis for not including it in the restructuring that took place. Accordingly, a direction was issued to Opposite Party No.1, i.e. Department of Ministry of Agriculture & Cooperation, Government of India to

immediately examine the issue at determine what the revised scale of pay for the Petitioner might be. The question of ACP being extended to the Petitioner should also be examined. The above steps be completed not later than 2nd May, 2022 and the decision be communicated to the Petitioner not later than 9th May, 2022. It is clarified that this Court has not expressed any opinion on the merits of the case excepting to the extent of holding that in the exercise of restructuring the Petitioner's post should have been included. This order is to be read in substitution of the impugned orders of the CAT.

8. The writ petition is disposed of in the above terms.

9. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

KC Bisoi