

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 18983 of 2010

Dhaneswar Mohanty

.... ***Petitioner***
Mr. N.M. Rout, Advocate

-versus-

Union of India and Others

.... ***Opposite Parties***

Mr. D. Rath, Central Govt. Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE A.K. MOHAPATRA

ORDER
03.03.2022

Order No.

- 03.
1. The challenge in the present petition is to an order dated 9th March, 2009 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack (CAT) dismissing the Petitioner's O.A. No.599 of 2005 and the order dated 7th December, 2009 passed by the CAT dismissing the Petitioner's review petition i.e. Review Application No.15 of 2009.
 2. The background facts are that the Petitioner was a Class IV/Group D employee in the Postal Department, Government of India. On 28th February, 1999 he retired from service reaching the age of superannuation. Consequent upon a disciplinary enquiry, he was inflicted with the punishment of removal from service.
 3. In appeal, by an order dated 29th October, 1989 the Appellate Authority reduced the punishment of removal to that of reduction of pay by 14 stages from Rs.943/- to Rs.775/- in the time scale of

Rs.775-1025/- for a period of five years with effect from 11th October, 1989.

4. By order dated 17th February, 1995 and 7th March, 1995 five posts of Daftari carrying the scale of pay of Rs.775-1025/- were abolished by creating five posts of Group-D carrying the scale of pay of Rs.750-940/- in lieu thereof.

5. On expiry of the period of punishment, the Director, Postal Services by an order dated 24th August, 1995 restored/fixed the pay of the Petitioner at Rs.1025/- in the maximum time scale of pay of Rs.750-940/- + Rs.85/- as his personal pay with effect from 1st October, 1994.

6. There was another disciplinary proceeding initiated against the Petitioner on 26th November, 1991. By an order dated 4th September, 1996 he was inflicted with the punishment of reduction of pay by three stages from Rs.940+850 and Rs.896+ Rs.85/- in the time scale of pay of Rs.750-940/- for a period of two years.

7. In the meanwhile, by an order dated 4th September, 1998 the Petitioner was promoted under the Time Bound one time promotion with the scale of pay of Rs.800-1150/- fixing his pay at Rs.980+Rs.85 (PP).

8. The CAT by an order dated 19th October, 1999 quashed the punishment order dated 4th September, 1996 with a direction to the Opposite Parties to grant consequential services and financial benefits to the Petitioner.

9. In compliance with the said order, the Opposite Parties issued an order dated 30th September, 2002 antedating the date of promotion of the Petitioner as 12th October, 1994. Contending that his pay in the promotional scale should have been fixed at Rs.800-1150/- considering the feeder scale to be Rs.775-1025/-, the Petitioner again approached the CAT with O.A. No.599 of 2005.

10. The CAT declined the above reliefs with the following reasoning:

"...the reversion of the pay of applicant by three stages was in the scale of pay of Rs.750-940/-. After 1993 order under Annexure-R/1, in all the correspondence the applicant has been shown to have been continuing in the scale of pay of Rs.750-940/-. The punishment was also imposed on the applicant in the scale of Rs.750-940/-. While fixing the pay vide order sheet dated 24.08.1995, after expiry of the first order of punishment, the pay of the applicant was fixed at Rs.1025/- as on 11.10.1994 in the time scale of pay of Rs.750-940/-. The Applicant had never raised any objection either before his authority at any point o time, or even questioned in this OA. There was no loss in the fixation of pay of the applicant in the pay scale of Rs.750-940/-. We see that there was no infirmity in the fixation of pay of the applicant in order dated 24.08.1995 which was done in the time scale of pay of Rs.750-940/- which was also admitted by the applicant in the note of submission filed by the Applicant. As per the order under Annexure-R/4 pay of the officials directly promoted from the scale of Rs.775-940/- to the scale of Rs.800-1150/- is liable to be fixed in accordance with the provision under FR 22(1)(a)(2)."

11. Having heard learned counsel for the parties and having examined the impugned orders as well as the other documents on record, the Court is not persuaded that any legal or factual error has been committed by the CAT in coming to the above conclusion. If indeed, the pay scale of the Petitioner for all practical purposes was taken as Rs.750-940/- at the stage of modification of the punishment as on 11th Octobe, 1994, then his pay was rightly fixed at Rs.1025/- and on promotion in the scale of pay Rs.800-1150/-. The CAT was not in error in declining to grant the relief as prayed for by the Petitioner.

12. The Court accordingly sees no reason to interfere. The writ petition is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(A.K. Mohapatra)
Judge