

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 41267 of 2021

Girish Chandra Sahoo, Petitioner
Bhubaneswar

Ms. Swapna Kumar Ojha, Advocate
-versus-

Union of India represented Opp. Parties
through the Secretary to
Govt. of India, Ministry of
Communications & IT,
Department of Posts, Dak
Bhawan, Sansad Marg, New
Delhi and Others

Mr. Biswajit Maharana, CGC

WP(C) No. 41268 of 2021

Bidyadhar Nayak, Petitioner
Bhubaneswar

Ms. Swapna Kumar Ojha, Advocate
-versus-

Union of India represented Opp. Parties
through the Secretary to
Govt. of India, Ministry of
Communications & IT,
Department of Posts, Dak
Bhawan, Sansad Marg, New
Delhi and Others

Mr. Biswajit Maharana, AGA

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO

Order No.

ORDER
05.01.2022

- 01.** 1. This matter is taken up by hybrid mode.

2. The present two writ petitions i.e. WP(C) No. 41267/2021 and WP (C) No. 41268/2021 have been preferred by Petitioners under Article 226 of the Constitution of India involving identical issues with a common prayer. Hence, the above two writ petitions are being disposed of by a common order.

3. The brief facts of the WP (C) No. 41267/2021 are that five retired Group 'B', Postal Superintendent/ Asst. Superintendent approached the Central Administrative Tribunal, Cuttack Bench to direct the Opposite Party Nos. 1 & 2 to extend the benefit of Non-functional upgradation by placing them in Grade Pay of Rs.5400/- from the date they have completed four years in Grade Pay of Rs.4800/- as per the Govt. of India, Finance Department Resolution dated 29th August, 2008 vide OA No. 360/2020. The learned Tribunal dismissed the claim of the Petitioners vide order dated 05.02.2021. On being aggrieved by the decision of the Tribunal, the Petitioners filed Review Application bearing R.A. No.260/04/2021 before the CAT, Cuttack on 22.02.2021. The Review petition is stated to be still pending.

4. Further, the brief facts of WP (C) No. 41268/2021 are that a disciplinary proceeding was initiated against the petitioner and he was penalized. The order of the disciplinary authority was challenged before the Tribunal vide OA No. 850/2016. The learned Tribunal

dismissed the said Original Application vide order dated 24.12.2019. On being aggrieved by the decision of the Tribunal, the Petitioner filed a Review Application before the CAT, Cuttack on 10.02.2020 and the same has not been registered. The Review Petition is still pending.

5. The prayers in both the above petitions are to issue a writ in the nature of Certiorari directing the CAT, Cuttack to expeditiously take up the unregistered Review Application arising out of O.A. no. 850/ 2016 and Review Application bearing RA no. 260/04/2021 arising out of O.A. no. 360/2020.

6. After hearing the arguments on both of the above Writ Petitions, it is pertinent to refer to the legal background relevant to the present case. Articles 323A and 323B of the Constitution of India laid foundation to the creation of Central Administrative Tribunal.

Article 323A (1) is reproduced below:-

“323A. Administrative tribunals.—(1) Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.”

Consequently, the Central Administrative Tribunals were created by the Administrative Tribunals Act, 1985 to perform a supplemental role in discharging the powers conferred by Article 226/227 of

the Constitution including the competence to test the constitutional validity of statutory provisions and rules.

7. The Tribunal is the Court of First Instance in respect of matters relating to Service Law. Further, pursuant to the Supreme Court decision in **L. Chandra Kumar v. U.O.I (AIR 1997 SC 1125)** this Court does possess the power of scrutiny of the orders of the Central Administrative tribunal as part of judicial superintendence. However, in our opinion we do not exercise supervisory powers as a matter of routine.

8. The High Court has very wide and pervasive power under Article 226 of the Constitution of India to redress grievances and to mould relief in order to render substantial and equitable justice. It is only a self-imposed restraint evolved by the Courts which can never be treated as an absolute bar. The Court restricts itself in interfering the matters which are pending before Tribunals constituted under Statute. But in an appropriate case, where the Court comes to the conclusion, that the delay so caused in deciding the controversy is fatal and the delay is not attributed to the parties, the High Court in exercise of powers enshrined under Article 226 of the Constitution of India is well equipped to ensure deciding of the matter in a time bound manner. However, upon perusal of the facts and after hearing the arguments addressed by the Ld. Counsel for the petitioner, the present case is not a

fit case wherein such like directions deserve to be issued.

9. Hence, in keeping the above point of law in mind we are not inclined to issue directions to the Central Administrative Tribunal as prayed for. However, we hope that the Central Administrative Tribunal, Cuttack takes up the unregistered R.A. arising out of OA No.850 of 2016 and R.A. No. 260/04/2021 arising out of OA No.360 of 2020 expeditiously which are pending since two years and ten months respectively.

10. Accordingly, both the writ petitions are dismissed.

11. Photocopy of this order be placed on the connected writ petition.

(Jaswant Singh)
Judge

(M. S. Sahoo)
Judge

January 5th 2022
Cuttack