

13 24.04.2023
D.Hira Ct. 25

WPA 7906 of 2023

**Swapan Kumar Mallik @ Malik
Vs.
Union of India & Ors.**

Mr. Sukhendu Banerjee.
.....for the petitioner

Mr. Soumava Mukherjee.
.....for the respondent nos. 2 to 6

Mr. Amal Kumar Datta.
... for the Union of India

Affidavit-of-service filed in Court today is retained with the record.

The petitioner prays for correct pay fixation in the present writ petition.

Mr. Banerjee, learned Counsel appears on behalf of the petitioner and submits that even though the petitioner was absorbed by the National Highways Authority of India vide office memorandum dated March 25, 2019, his pay protection was not granted by the said office order. The basic pay along with the grade pay of the petitioner was downgraded when the petitioner was absorbed by NHAI, despite the fact that when the petitioner worked on deputation his basic pay and the grade pay was at par with his Parent organization (Border Road Organization).

A point of maintainability has been urged by the respondents relying on the decision of Hon'ble Supreme Court in **L. Chandra Kumar vs. Union of India** reported in (1995) 1 SCC 400.

Considering the provisions of Section 14 of the Administrative Tribunals Act, 1985, this Court is of the view that the Central Administrative Tribunal is the appropriate authority to consider the grievance of the petitioner at the first instance.

In such view of the matter, this Court holds that it does not have the jurisdiction to receive, try and entertain the instant writ petition at the first instance.

In the light of the discussions as above, **WPA 7906 of 2023** is **dismissed**.

However, the petitioner will be at liberty to approach the appropriate forum on the self-same cause of action, if so advised.

Since no affidavits have been directed to be exchanged in the writ petition, all the allegations contained therein are deemed not to have been admitted by the parties.

All parties are directed to act on a server copy of this order, duly downloaded from the official website of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)