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CORAM:

Hon'ble Smt. C. Narayanaswamy, Vice Chairman.

Hon'ble Shri P. C. Patra, Member (Judicial)

ORIGINAL APPLICATION NO. 2172 OF 1996

Sadananda Patra.

... Applicant.

Versus.

State of Orissa represented through
Secretary, Finance Department, Orissa
Secretariat, Bhubaneswar and others. ... Respondents.

APPEARANCE

For the applicant:

Mr. P. K. Mishra,
Advocate.

For the respondents:

Sri P. Samantaray,
Standing Counsel.

Date of hearing-2.2.1999; Date of decision-2.2.1999;

ORDER

C. NARAYANASWAMY, VICE CHAIRMAN:

The applicant in this case is an ex-service man.
Vide annexure-1 to the Original Application, he has
been appointed as a Junior Clerk in the scale of
pay 780-10-860-18-896-EB-950-20-1050-EB-22-1160/-
on being sponsored by the Zilla Sainik Board, Kalahandi,
Bhawanipatna. At the time of his appointment, the
pre-revised scales of pay, 1985 were in force. Vide
annexure-3 dated 21.8.1993 his pay has been fixed
in the scale of pay n. 780-16-860-10-896-EB-18-950-
20-1050-22-1160/- with effect from 1.3.1989. The
grievance of the applicant is that when the scales
of pay were revised in 1989 with effect from 1.5.1989,
he did not get the benefit of the revised scale

and his pay was not revised with effect from 1.5.1989.

Vide annexure-4 dated 26.7.1995 his request was rejected by the Director. The Original Application has been filed being aggrieved by that order.

2. The State respondents have filed counter from which it transpires that the applicant was denied the benefit of the revised scale treating his appointment as a case of re-employment. Reliance is placed upon the Orissa Revised Scales of Pay Rules, 1969 given at annexure-C to the counter. Rule 2(2) stipulates that the Rules shall not apply to persons re-employed in Government service after retirement. This clause has been invoked for not fixing the pay of the applicant in the revised scale.

3. Heard the learned counsel for the applicant and the learned Standing Counsel.

4. The enabling provision referred to above is obviously intended to persons re-employed after attaining the age of superannuation in whose case the salary during the period of re-employment has to be limited to the last pay drawn by them.

However, the appointment of the applicant is not a

case of re-employment.

It is a case of regular

appointment against the quota earmarked for ex-service-men in accordance with the Orissa Ex-Servicemen (Recruitment to State Civil Services and Posts) Rules, 1965. The order of appointment at annexure-1 does not state that he has been re-employed. It is a regular order of appointment under the rules mentioned above.

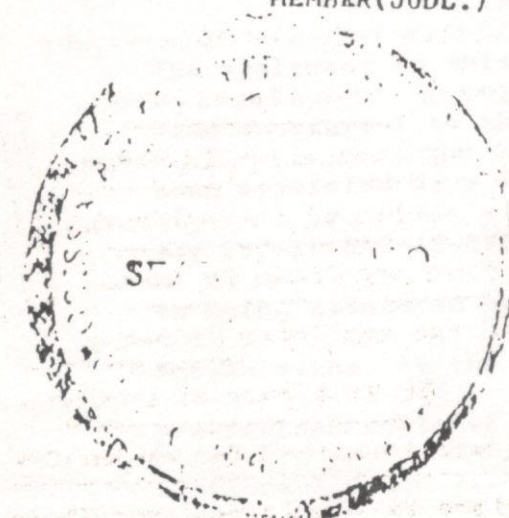
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5. Accordingly, we direct that the applicant is not to be treated as a person re-employed but as a regularly appointed Govt. servant and like all Govt. servants he is entitled to the benefit of the revised scales of pay which came into force after his appointment. His pay be revised accordingly and the differential amount payable to him be worked out within four months from the date of receipt of a copy of this order. The amount may be paid to him either in cash or by crediting the same to his G.P.F. account. Original Application is allowed. No costs.

(Signature)
 (C. NARAYANASWAMY)
 VICE CHAIRMAN.

I agree.

(Signature)
 (P. C. MURUGU)
 MEMBER (JUDL.)



TRUE COPY

(Signature)
 Deputy Registrar.