

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH, KOLKATA**



CPC. 350/00241/2015  
(OA. 305 of 1997)



**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. N. Chatterjee, Administrative Member**

N. Satyanarayan Murty,  
Son of Nagarju,  
At present residing at C/o. Sri N. Mohan Rao,  
162/B, M.G. Road,  
Kolkata – 700 007.

..... Applicant.

Versus

1. Sri Rajiv Bishnoi,  
General Manager,  
East Coast Railway,  
Bhubaneswar,  
Orissa. Pin – 751 023.
2. Sri M. Ray,  
Chief Personal Officer,  
East Coast Railway,  
Bhubaneswar,  
Orissa. Pin – 751 023.
3. Sri P. Kishore Babo,  
Chief Personal Officer (Administration),  
East Coast Railway,  
Bhubaneswar,  
Orissa. Pin – 751 023.
4. Sri S.B. Ninawe,  
Chief Accounts Officer (Construction),  
East Coast Railway,  
Bhubaneswar,  
Orissa. Pin – 751 023.
5. Sri P. Behera,  
Chief Electrical Engineer (Construction),  
East Coast Railway,

DRMS Officer Complex,  
Dondaparthi Waltair Station Approach Road,  
Visakhapatnam, Pin – 530 004.



6. Smt. Chandralekha Mukherjee,  
Divisional Railway Manager,  
East Coast Railway,  
Bhubaneswar,  
Orissa. Pin – 751 023.

7. Sri M.L. Meena,  
Additional Divisional Railway Manager,  
East Coast Railway,  
Bhubaneswar,  
Orissa. Pin – 751 023.

.....Respondents/ Contemnors.

For the applicant : Mr. S.K. Datta, Counsel  
Mr. A. Banerjee, Counsel

For the respondents : Mr. S. Banerjee, Counsel

Date of Order : 05.02.2020.

### **ORDER**

**Per : Bidisha Banerjee, Judicial Member**

The Respondent No. 4, i.e. CAO(Project)/SE Railway/CS Pur/BBS issued a Speaking Order dated 22.7.1996 denying regularization to the applicant. Assailing the same he preferred O.A. 305 of 1997. It is the order dated 1.9.2006 in O.A. 305/1997 that is alleged to be violated. The order reads as under:

*"The applicant has filed this OA seeking the following reliefs:*

- i) *To direct the respondents to cancel, withdraw and/or rescind the purported Speaking Order dated 22-7-96 as contained in Annexure D.*
- ii) *To direct the respondents to regularize the service of the applicant to the post of Supervising Mistry from the date of his appointment to the said post.*
- iii) *To direct the respondents to fix the pay of the applicant to the post of Supervising Mistry in the scale of Rs. 380-560/- / 1400-2300/- from the date of appointment to the said post.*

- iv) To direct the respondents to step up the pay of the applicant to the said post of Supervising Mistry in the said scale of Rs. 360-560/- / 1400-2300 at par with his juniors.
- v) To direct the respondents to prepare and publish the seniority list of Supervising Mistries forthwith including the name of the applicant."

The brief matrix of the case according to the applicant are that he initially joined as Casual Supervising Mistry in the year 1980 and was posted at S. Kota and was given temporary status w.e.f. 1-1-84. He states that as per Estt. SL No.267/76 dated 20-8-76 he is entitled to get the pay scale of Rs. 380-560/-. He further states that though he is discharging the duties of the abovesaid post but he has not been given the scale of the said post. He states that similarly circumstanced employees who have been appointed along with the applicant or even after the applicant have been allowed the pay scale of Rs. 400-2300/-, while it has been denied to him. He thus made several representations to the concerned authority for assignment of proper scale of pay attached to the post but to have no effect and he filed applications being OA 1168/92 and OA 1006/92 before this bench and both the OAs were heard together and decided on 14-11-95 by a common order which is as under:

"4. In view of the above submission, the two applications are disposed of with the direction that the respondents shall treat both the applications as fresh representations and dispose of them within a period of 4 months, from the date of communication of this order and, therefore, pass a speaking order which shall be communicated to the applicant within one month from the date. The said decision shall be taken by the respondents as per the provisions of the extant rules and law. Be it noted that the points taken by both the parties have been kept open. No order is passed as regards costs."

Thereafter vide order dated 22-7-96 the respondent No. 4 passed a speaking order and the same was communicated to him vide letter dated 24-7-96 denying regularization of applicant. He further states that 4<sup>th</sup> Pay Commission recommended lowest Supervisory Category in all departments in the scale of Rs. 1400-2300/- and while all Ministries have implemented the same, the applicant is still continuing in non-existent/non-prescribed scale of Rs.330-480/- / Rs. 1200-1800 w.e.f. 1-1-86 which is erroneous inspite of several representations both orally and in writing and therefore he is discriminated against. Being aggrieved with speaking order the applicant filed this OA to ventilate his grievance.

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...We also find that it is an admitted fact that the applicant was initially appointed as Casual Supervising Mistry and continuously worked about 17 years in that post. The contention of the respondents that the applicant being skilled artisan has no claim for granting the scale of Rs. 1400-2300/- is not tenable and cannot be taken into consideration. We also find that the respondent authorities passed the speaking order dated 22-7-96 without considering the facts and the relevant rules in force by that time. After a careful consideration of submissions of both the parties and after a careful reading the material and relevant rules and circular, we are of opinion that the Estt. SL NO. 267/76 is squarely applicable to the case of the applicant and he is entitled to get the scale of Rs. 1400-2300/-.

9. In the result for the foregoing reasons and discussions made above, we find a lot of force in the submission made by the learned counsel for the applicant. Accordingly, we set aside and quash the impugned speaking order dated 22-7-96 (Annexure-D) and we direct the respondents to regularize the service of the applicant to the post of Supervising Mistry from the date of his appointment to the said post and fix the pay of the applicant to the post of Supervising Mistry in the scale of Rs. 380-560/- / Rs. 1400-2300 with all consequential benefits. Accordingly the OA is allowed. MA is also disposed of. No order as to costs."

2. WPCT 201 of 1997 preferred against this order, by the respondents in O.A. was dismissed as under:



*"As nobody appeared for the petitioner on 10<sup>th</sup> April, 2013, we adjourned the matter. Nobody appears for the petitioner again today.*

*The writ petition is dismissed."*

3. Alleging violation of the order in the O.A. 305/1997, this CPC was filed. Meanwhile, the applicant was declared absorbed in the scale Rs. 380-560/- against an existing PCR post w.e.f. 01.04.1984, vide O.O.no EL/Con/VSKP/E-03/367, dt 17.07.2014. The CPC was disposed of on 1.12.2014 (Annexure A-4) with the order that,

*"2. Ld. Counsel for the applicant however submits that the applicant is still aggrieved as Pay Scale of Rs. 1320 -2040/- has been granted w.e.f. 1.1.1986 instead of Rs. 1400-2300/- as directed in O.A. and in support thereof a chart has been produced.*

*3. However both parties agree that there has been substantial compliance of the order passed by the Tribunal, hence the CPC is dropped. Notices issued, if any, are discharged.*

*4. With regard to the prayer seeking pay of Rs. 1400-2300/- w.e.f. 1.1.1986, as it seems that the applicant's claim may be a genuine one, the applicant may prefer a representation to the authorities within a week of receipt of this order, and the said authority upon receipt of the same shall issue appropriate order granting benefits of Rs. 1400-2300/- from 1.1.1986, if admissible to the applicant in terms of the order passed in the O.A., within a period of one months from the date of receipt of a copy of this order In case the applicant is still aggrieved he shall be at liberty to revive the Contempt Proceedings on oral submissions"*

4. Upon revival, on 25.8.2015, further the following order was passed:

*" Ld. Counsel for both sides are present.*

*2. Ld. Counsel for the respondents submits that the order passed in the O.A. has been fully complied with by the respondents.*

*3. Ld. Counsel for the applicant submits that he has no instructions regarding compliance of the order passed by this Tribunal.*

*4. Since substantial compliance of the order has already been made, the CPC is dropped. Notices issued, if any, are discharged.*

5. The letter dated 3.2.2015 issued by the Dy. Chief Electrical Engineer (Con.), East Coast Railway, Visakhapatnam with regard to such compliance with break-up of dues us taken on record."



5. Again on 9.8.19 the following order was issued:

"*Ld. counsel for both sides are present.*

*Registry to place the reply filed by the alleged contemnors in connection with the CPC 100/13 arising out of O.A. 305/1997.*

*Respondents/alleged contemnors shall disclose the date of original engagement of the applicant, the basis for grant of temporary status w.e.f 1.4.1984 when this Tribunal has clearly mentioned in its order passed in O.A that the date of regularisation of the applicant has to be from the date of his appointment.*

*The alleged contemnors to respond to the chart prepared by the applicant in CPC by 4 weeks.*

*List on 15.11.2019.*

*Plain copy of this order be handed over to ld. counsel for both sides."*

6. The alleged contemnors have averred that, as per Hon'ble CAT/Calcutta's Orders dated 01.12.2014, in CP (C) 100 of 2013, the pay of the Appellant, Sri. N. Satyanarayana Murty's, Supervising Mistry, had been fixed at Rs. 26,830/- including 'Grade Pay of Rs. 5400/- in the scale of Rs (9300-34800)/- in PB-2, and an amount of Rs 14,74,327/- towards arrears was passed in 2 installments. Further, an amount of Rs. 8,87,464/- was credited directly to the appellant's SBI/Gopalapatnam S.B. account no 31309729273 on 11.10.2014 and 31.01.2015 respectively, after deducting PF arrears, CGIS arrears & Income Tax etc.

They are however conspicuously silent about date of effect of revised scale.

7. The Respondents have disclosed the following list of dates:



### LIST OF EVENTS

1.	26-11-1980	-	The respondent was initially appointed as a casual supervising Mistry on daily wages basis of Rs.8/- which was applicable at the relevant time to all skilled grades including the category of supervising Mistry the corresponding grade to which daily wage at the material time was Rs. 260 - 400/- at revised to Rs. 950 - 1500/-
2.	24-5-1981	-	The respondent after his completing 180 days of combined service on daily wages basis was inadvertently given daily wage Rs.20.19 instead of his entitlement to the daily rate of wage of Rs.16.42.
3.	1-1-1984	-	The temporary status of casual workers of the respondent was antedated as Casual Supervision Mistry in the scale of Rs. 260 - 400/-
4.	1-1-1985	-	The respondent along with other casual labour was granted temporary status in casual services as per Establishment Serial No. 107/84, vide office order No. 13/85 dated 12-3-1985 of DEN/RE/WAT
5.	1-12-1986	-	The respondent was granted the scale of Rs.330 - 480/- upon modification of earlier office order.
6.	9-9-1992	-	The respondent made representation for granting him the scale of Rs.1400 - 2300/- and for regularizing his service as Supervising Mistry on the basis of his alleged discharging the duties and functions as Supervising Mistry all-through.
7.	In 1992	-	In 1992 the respondent filed O.A. No.1006 of 1992 before the Learned Tribunal / Calcutta Bench against non-fixation of his pay attached to the post of supervising Mistry.

The list of dates strengthens the claim of the applicant that the date of his initial appointment is 26.11.1980.

Further, they have disclosed the details of the payments as under:

S. no	Subject	Amount (Rs)
1	Total arrears bill amount	14,74,327/-
2	Deduction towards PF arrears	2,19,063/-
3	Deduction towards CGIS arrears	10,800/-
4	Deduction towards IT	3,57,000/-
5	Net amount credited to SBI A/C	8,87,464/-

8. It has been alleged that the PPO dated 27.10.17 discloses his date of appointment as 1.1.1984 whereas interim of the order dated 1.9.2006 the applicant ought to be granted regularisation w.e.f 1980.



9. We note that on 1.12.14 this Tribunal had already expressed its view as under:

*"Ld. Counsel for the alleged contemnor submits that the applicant has been granted all the due payments and he has accepted the same without any demur, in support thereof documents have been produced."*

Whereas the respondents have disclosed the following fixation, extracted as under:

" E.C.O RLY  
THE REVISED PAY AND ANNUAL INCREMENTS INFAVOUR OF SRI N. SATYNARAYANA MURTHY  
RETIRED SUPERVISOR MISTRY (WORKS)  
AS PER HOUARABLE CAT/CALCUTTA BENCH ORDERS  
THE DATE OF APPOINTMENT, PAY AND SCALE OF PAY OF ABOVE NAMED IS AS FOLLOWS

DATE	PAY	SCALE OF PAY	REMARKS
26.11.80	380	380-560(RS)	
1.11.81	392	380-560(RS)	
1.11.82	404	380-560(RS)	
1.11.83	416	380-560(RS)	
1.11.84	428	380-560(RS)	
1.11.85	440	380-560(RS)	
1.11.86	1440	1400-2300	PAY IN IVth PC
1.11.86	1480		
1.11.87	1520		
1.11.88	1560		
1.11.89	1600		
1.11.90	1640		
1.11.91	1680		
1.11.92	1720		
1.11.93	1760		
1.11.94	1800		
1.11.95	1850		
1.11.96	5750		PAY REFIXED IN SCALE 5000-8000 IN Vith PC
1.11.96	5900		
1.11.97	6050		
1.11.98	6200		
1.10.99	6375	5500-9000	1 <sup>st</sup> ACP AS COMPLETION OF 12 YEARS SERVICE
1.11.99	6350	5000-8000	AS PER EST. SL NO. 288/99
1.11.99	6550	5500-9000	PAY REFIXED FROM THE DATE OF NEXT LEVEL
1.11.00	6725		IN LOWER GRADE AS PER EST SL NO:231/81.
1.11.01	6900		
1.11.02	7075	5500-9000	
1.11.03	7250	5500-9000	
1.11.04	7425	5500-9000	
26.11.04	7700	6500-10500	IIInd ACP ON COMPLETION OF 24 YEARS

1.11.05	7900		
1.1.06	19300	9300-34800+UP4600.	PAYREFIXED IN Vith PC
1.7.06	19880		
1.7.07	20480		
1.7.08	21100		
1.9.08	21940	9300-34800+GP 4800	1 <sup>st</sup> MACP ON COMPLETION OF 10 YEARS SERVICE
1.9.08	22600	9300-34800+gp 5400	IIInd MACP 20 YEARS OF SERVICE
1.7.09	23280		
1.7.10	23980		
26.11.10	25900	9300-34800+GP,6600	IIInd MACP ON COMPLETIO OF 30 YEARS SERVICE
1.7.11	26680		
1.7.12	27480		
1.7.13	28310		
1.7.14	29160		
1.7.15	30040		
1.1.16	77300		PAY REFIED IN VII IN PC
1.7.16	79700		
1.7.17	82100		
31.10.17	82100		RETIRED FROM SERVICE ON SUPERNUVATION OF AGE

The extract demonstrates that the revised scale that was payable w.e.f. 1.1.86 was allowed from 1.11.86. Hence we issue notice to the respondents to grant the scale w.e.f. 1.1.1986 the date of implementation of Pay Commission recommendation and issue appropriate order by 3 months or to show cause why appropriate CPC proceedings shall not be drawn up.

List on 20.3.2020 - B.

(Dr. N. Chatterjee)  
Administrative Member

(Bidisha Banerjee)  
Judicial Member

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