

7

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 420 OF 1989

date of decision: March, 22, 1991

K.C. Subudhi

:Applicant

Versus

Union of India and others

:Respondents

For the applicant

: M/s. Ganeswar Rath,  
P.K. Mohapatra,  
A.K. Patnaik,  
Advocates

For the Respondents

: M/s D.N. Misra, Standing  
Counsel (Railway Admn.)

**CORAM:**

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? No
2. Whether Their Lordships wish to see the fair copy of the Judgment? Yes.

-----

JUDGMENT

B.R. PATEL, VICE-CHAIRMAN: In this application the applicant has sought <sup>for</sup> orders of the Tribunal to step up his pay on the ground that his juniors are getting more pay than him. The applicant is a driver Grade 'C'. According

*B.R.P.*

to the applicant he was appointed as a Driver with effect from 4.8.1985 but according to the Respondent the applicant was appointed with effect from 26.8.85.

2. The Respondents in their counter affidavit in para-6 of the counter maintained that the applicant was promoted to the post of Driver Grade 'C' prior to 1.1.1986 and that others junior to him were so promoted after 1.1.1986. We are of the view that the pay of the applicant would not be less than that of his juniors at any point of time unless of course as a measure of penalty, it has been reduced to a lower pay scale or to a lower stage in the existing pay scale or increments were withheld.

3. Mr. D.N.Misra learned Counsel for the Railway Administration submits that after 1.1.1986 the pay of the applicant was stopped for 42 months on account of punishment imposed on him in a disciplinary proceeding. The penalty imposed, according to Mr. Misra, had non-recurring effect in the first six months and 36 months with recurring effect. Mr. Misra has averred that the applicant was getting lower pay than that of his juniors because of the penalty imposed on him sometime after 1986 in the disciplinary proceeding referred to above. We would

*Amul*

therefore ~~be~~, direct that the pay of the applicant should be fixed at a stage not lower than that of his immediate junior or juniors on their promotion as driver Gr'C but he would not be entitled to continue to get the same after the penalty was imposed on him and the <sup>in the</sup> penalty ~~was~~ imposed ~~on~~ disciplinary proceeding would have its effect on the pay of the applicant. His claims for higher pay with effect from 1.1.1973 cannot be entertained as it is clearly barred by limitation and also on account of option exercised by ~~the~~ applicant for a particular pay scale vide Annexure-R/1 to the counter affidavit.

4. This application is accordingly disposed of leaving the parties to bear their own costs.

*Neeraj*  
22.3.91  
\*\*\*\*\*  
MEMBER (JUDICIAL)



*Biju Mohanty*  
22.3.91  
\*\*\*\*\*  
VICE CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench: Cuttack: K. Mohanty.