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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 339 OF 1992.

Cuttack, this the 27th day of May, 1998.

AZHAR MOHAMMAD.

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APPLICANT.

-Versus-

UNION OF INDIA & OTHERS.

....

RESPONDENTS.

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(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Som
(SOMNATH SOM)
VICE-CHAMAN
27.5.98

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 339 OF 1992.

Cuttack, this the 27th day of May, 1993.

C O R A M:-

THE HONOURABLE MR. SOMNATH SOM, VICE- CHAIRMAN.

A N D

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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In the matter of:

Mr. Azhar Mohammed,
aged about 46 years,
S/o. Mr. A.R. Mohammed,
Or.No. 741/D, Retang Colony,
P.O. Jatni, Dist. Puri.

....

APPLICANT.

By Legal practitioner :- M/s. P.V. Ramdas, B.K. Panda, Advocates.

-Versus-

- 1) Union of India represented by
General Manager, S.E. Railway,
Garden Reach, Calcutta-43.
- 2) Chief Personnel Officer,
S.E. Railway, Garden Reach,
Calcutta-43.
- 3) Divisional Railway Manager (P),
S.E. Railway, Khurda Road,
P.O. Jatni, Pin-752 050,
Dist. Puri.
- 4) Divisional Accounts Officer,
S.E. Railway, Khurda Road,
P.O. Jatni, Dist. Puri,
Pin-752 050.
- 5) Divisional Mechanical Engineer,
S.E. Railway, Khurda Road,
P.O. Jatni, Dist. Puri,
PIN-752 050.

.... Mr. Bijoy Pal,
Mr. O.N. Ghosh,
Senior Standing
Counsel (Railways).

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O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL) :-

Applicant, who was serving as Fireman, under the Respondents-Railways, because of injury to his eye, was decategorised and posted as Store Issuer in the Loco-shed, Khurda Road in the year 1972 in the scale of Rs. 105-135/- . The post of Store Issuer and similar other posts, have been up-graded as Junior Clerk in the scale of Rs. 110-130/- with effect from 01-10-1972. However, the applicant and other four similarly placed persons, were denied the benefit of revised scale of pay attached to the Junior Clerk, though 26 (twenty six) other employees were extended this benefit inspite of several representations. Applicant, alongwith four other persons, preferred O.J.C. 1071/1984, challenging the order of reversion dated 13-4-84. This OJC, has subsequently been transferred to this Tribunal, under section 29 of the Administrative Tribunals Act, 1985 who in order dated 30-11-1989, set aside the reversion order. The Railway Authorities, though implemented the direction issued by this Tribunal, did not take into account their seniority.

On the basis of these averments, applicant prays for issue of direction to the Respondents for fixation of his pay in the post of Store Issuer from Rs. 105-135/- to Rs. 110-130/- with all consequential benefits and for fixation

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of his seniority on the basis of the order/direction dated 30-11-1989 of this Tribunal.

2. During the hearing, learned counsel for the applicant has not pressed the relief claiming seniority. Hence, this order will be confined to his other prayer in regard to fixation of pay of store issuer from Rs. 105-135/- to 110-180/- with all consequential benefits.

3. Respondents-Railways, in their counter, submitted that in view of Chief Personnel Officer's letter No.CPO/2, dated 1-11-1972, the staff who are working in the posts of Store Issuer/Coal Issuer etc. in the scale of Rs.105-135/-, were upgraded and placed in the scale of Rs. 110-180/- with effect from 1.10.1972. On receipt of this order, the case was processed for up-gradation of 31 posts which were under operation at the relevant time, in the scale of Rs. 105-135/- to Rs. 110-180/-. However, only 26 (twenty six) posts carrying the scale of Rs.105-135/- were upgraded to the scale of Rs. 110-180/- and consequently, 26 posts of Store Issuer/Coal Issuer were promoted to the cadre of Clerk in the scale of Rs. 110-180/- w.e.f. 1.10.1972. Since the applicant was not a store issuer on the crucial date i.e. 1.10.1972, he would not be eligible to the upgraded scale of Rs. 110-180/-.

It is not in dispute that the nature of work performed by the upgraded employees and the petitioner is same. Upgraded employees were also store issuer/coal

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Issuer. Law is well settled that among the equals, there should not be discrimination, ^{in the matter of pay the view of} on the principles of equal pay for equal work. Time and again the Apex Court reiterating this principle laid down the equal pay for equal work has assumed the status of fundamental right. Hence denial of pay scale of Rs. 110-180/- to the applicant, under the circumstances, offends this principle implied under article 14 of the Constitution on being discriminated.

4. In the result, we direct the Respondents, to fix the applicant's pay in the Post of Store Issuer from Rs. 105-135/- to Rs. 110-180/- and grant all consequential benefits flowing therefrom within a period of sixty days from the date of receipt of a copy of this order.

5. Thus, the Original Application is allowed. But in the circumstances, no order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.5.98

27.5.98
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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