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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 323 OF 1993
Cuttack this the 9th day of August, 1999

Bichitrananda Parida & Others

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
9.8.99

209 9.8.99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.323 OF 1993
Cuttack this the 9th day of August, 1999

CORAM:

**THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)**

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1. Bichitrananda Parida, aged about 45 years, Son of D.Parida
2. G.Krishna, aged about 52 years, Son of Late G.Kereya
3. Bipinbihari Sahoo, aged about 49 years Son of Kunjabihari Sahoo
4. Babaji Charan Sahoo, aged about 48 years, Son of Late Gajendra Sahoo
5. Jagannath Mohanty, aged about 44 years, Son of Late H.K.Mohanty
6. Batakrishna Mallik, aged about 47 years, Son of Late Dasarathi Mallik
7. Nrushingha Charan Barik, aged about 47 years Son of Late Gadadhar Barik
8. Pradipta Kishora Jena, aged about 46 years, Son of Late B.C.Jena
9. Prabhu Charan Mohanty, aged about 50 years Son of Late S.C.Mohanty
10. Babaji Samantray, aged about 52 years, Son of Late Mahadev Samantray
11. Madhusudan Sahoo, aged about 47 years, Son of Bansidhar Sahoo
12. S.Ramdas Reddy, aged about 47 years, Son of S.Pataya Reddy
13. Nandakishora Samal, aged about 47 years Son of Harihar Samal
14. Jairam Sethy, aged about 51 years, Son of Late S.Sethy
15. Gauranga Charan Jena, aged about 47 years Son of Late Banchhanidhi Jena

16. Birabar Rout, aged about 57 years,
Son of Late Krishna Chandra Rout
17. Rama Ranjan Mohanty, aged about 48 years
Son of Mayadhar Mohanty
18. Hrushikesh Rout, aged about 50 years
Son of Late Nabin Rout
19. P.Pradhan, aged about 51 years
Son of Late Baja Pradhan
20. Mahendra Kumar Pradhan, aged about 48 years
Son Bhikari Pradhan
21. B.Kurmeya, aged about 50 years
Son of Late B.Barasam
22. Chhabinarayan Thamba, aged about 48 years,
Son of Late Satyabadi Thamba
23. Chakradhar Sahoo, aged about 49 years
Son of Late Sbarbeswar Sahoo

All are working as Aircraft Assistants, in the Office of the Deputy Director, Aviation Research Centre, Charbatia, P.S. Choudwar, District: Cuttack

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Applicants

By the Advocates : M/s.A.Deo
B.S.Tripathy

-Versus-

1. Union of India represented by the Secretary, Cabinet Secretariat, South Block New Delhi. 110022
2. Director General of Security, Aviation Research Centre, Cabinet Secretariat, New Delhi-110022
3. Director, Aviation Research Centre, Office of the Cabinet Secretariat Block V, Eas, R.K.Puram, New Delhi-110066
4. Deputy Director, Aviation Research Centre(ARC)
At/Po: Charbatia

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Respondents

By the Advocates : Mr.U.B.Mohapatra
Addl.Standing Counsel
(Central)

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicants, 23 in number, serving as Aircraft Assistants at A.R.C., Charbatia, in this application filed in June, 1993, pray for the following reliefs:-

- a) To pass appropriate orders directing the respondents to give the salary of Class III employees, i.e. Rs.260-350/- with effect from due date, i.e., when the Third Pay Commission report was made applicable and Rs.975-1660/- with effect from the due date when the recommendation of Fourth Central Pay Commission was made applicable to the Central Government employees;
- b) To pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case;
- c) To allow the application with costs.

2. There is no dispute that the applicants joined as Aircraft Cleaners in the year 1965. The pay scale was Rs.80-4-120/- in respect of Class IV employees. Their case is that in the year 1971 the post of Aircraft Cleaner was treated as Group-C belonging to Class III cadre. On the implementation of the 3rd Pay Commission Report in the year 1973, the minimum pay scale for Class-III was Rs.260-350/-. However, this scale was not given to the applicants, but basic scale of pay of Rs.210-290/- meant for Class IV employees was sanctioned to the applicant. When the recruitment rules of the A.C.R. came into force in the year 1977, the post of Aircraft Cleaner was again treated as Class IV, the age of superannuation of which is 60 years. Thus the applicants submit that in case they are treated as Class IV employees, their age of superannuation should be at 60 years and in case they are treated as Class-III employee on the basis of the order of 1971, they are entitled to minimum basic scale of pay Rs.260-350/- meant for Class III employees.

3. In the year 1979-80, respondents took a decision that 20% of the total posts of Aircraft Cleaners would be treated as Aircraft Cleaners(Selection Grade) in the scale of Rs.260-350/-. Aircraft Cleaners, who completed 14 years of service would be eligible to be absorbed in the Selection Grade post on the basis of seniority. However, at that time none of the applicants could complete 14 years of service and were drawing salary in the scale of Rs.210-290/-.

4. In the year 1981, the post of Aircraft Clearner was redesignated as Aircraft Assistant and two different categories, viz., Aircraft Assistant (Selection Grade) and Aircraft Assistant(Ordinary Grade) were maintained. When in the year 1986, 4th Pay Commission report was accepted, the distinction between Selection Grade and Ordinary Grade was abolished and pre-revised scale of Rs.260-350/- was enhanced to Rs.950-1400/- for Class-III employees. But the Department treated the applicants in the pay scale of Rs.825 - 1200/-. Hence this application.

5. In the counter filed in November, 1993, the respondents(Department) say that as per F.R., superannuation age of Class-III employees is 58 years and of Class-IV 60 years. Post of Aircraft Cleaner redesignated as Aircraft Assistant is classified as Class.IV (Group D non-Gazetted) under recruitment rules of the year 1977 (Annexure-R/l). As number of Aircraft Cleaners represented that they should be treated as Class-III employees as they are not working like Peons, Safaiwallas and so on, the Department allowed the Aircraft Assistants who were appointed prior to 1.1.1973

in the pre-revised scale of Rs.80-120/- to be classified as Class-III post (Group C) as per Cabinet Secretariat D.O. letter dated 24.10.1980 (Annexure-R/2) subject to their exercising option to be classified as Class-III employees. All these applicants have exercised such option with full knowledge that they have to retire from service at the age of 58 years. While issuing such order, the Department had never made any commitment that their scales of pay would be revised or changed simultaneously.. Further the pay scale of Rs.80 -120/- prior to 3rd Pay Commission was revised to the corresponding scale of pay of Rs.210-290/- and 4th Pay Commission further revised that scale from Rs.825-1200/-. Though the lowest scale of Group C cadre post, as per 3rd Pay Commission report was Rs.225-308/-, the same having not been provided from the inception to the Aircraft Assistants, who were allowed to enjoy the status of Group C employees, the applicants could have no right to claim that benefit at this stage. Respondents denied the averment of the applicants that the minimum basic scale of Class III after 3rd Pay Commission was Rs.260-350/-. The Selection Grade Aircraft Assistants, who were in the pay scale of Rs.260 - 350/- were allowed corresponding revised pay scale of Rs.975-1660/- with effect from 1.1.1986 till their retirement, and that they have already got the benefit of that scale prior to 4th Pay Commission report

Applicants in their rejoinder though reiterated the facts averred in the application did not deny the version of the respondent that as per Govt. decision

dated 3.11.1988 (Annexure-R/3), they opted to be treated as Class-III employees having knowledge that they would be retiring at the age of 58 years, but in the scale of Rs.210-290/-.

This is also clear from Annexure-R/5, Office order dated 31.5.1982.

5. We have heard Shri A.Deo, learned counsel for the applicants and Shri U.B.Mohapatra, learned Addl. Standing Counsel appearing for the respondents(Department). Also perused the records. As earlier stated that there is no dispute as to the facts Aircraft Cleaners demanded to be treated as Class-III employees and that the Government accordingly took a decision to treat the Aircraft Cleaners joining prior to 1.1.1973 in the scale of Rs.80-120/- as Grou-C (Class-III) employees. This is also clear from Annexure-R/2 that letter dated 25.10.1980 from the Cabinet Secretariat to the A.R.C. directorate. Under Annexure-R/3 dated 3.11.1980, the A.R.C.Directorate issued memorandum that Aircraft Cleaners who were in position prior to 1.1.1983 may be asked to give written option within three months be whether they wanted to treated as Class-III employees to be superannuated at the age of 58 years or would continue to be Class-IV employees. There is no mentioned in this Memorandum as to the revision of pay scales of those Aircraft Cleaners who gave such option. Annexure-R/4 dated 31.5.1982 is clear that applicants along with 25 others joining prior to 1.1.1973 had opted to be classified as Class-III employees, and that all these employees were in the pre-revised scale of Rs.80-120/-. Having opted so in the year 1982, and having been treated

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as Class III employees pursuant to their option when this order dated 31.5.1982 (Annexure-R/4) was issued, it is too late for them to approach this Tribunal in the year 1993 for revision of their pay scales. We also do not find any legally impropriety in allowing such of those Selection Grade Aircraft Assistants getting the benefit of pay scale of Rs.260-350/- prior to the 4th Pay Commission report to continue in the corresponding revised scale of Rs.975-1660/- after the 4th Pay Commission report even though Selection Grade cadre as such has been abolished after the 4th Pay Commission.

8. In the result, we do not see any merit in this application which is accordingly dismissed, but without any order as to cost.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
18.9.93

B.K.SAHOO

9.8.93
(G.NARASIMHAM)
MEMBER(JUDICIAL)