

11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH

Original Application No. 453 of 1995

Cuttack this the 21st day of March, 1996

Bipin Kumar Pathan

...

Applicant (s)

Versus


Union of India & Others

...

Respondent (s)

(FOR INSTRUCTIONS)

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


(N. SAHU)
MEMBER (ADMINISTRATIVE)


(D.P. HIREMATH)
VICE-CHAIRMAN

12
CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

Original Application No. 453 of 1995

Cuttack this the 21st day of March, 1996

C O R A M:

THE HONOURABLE MR. JUSTICE D.P. HIREMATH, VICE-CHAIRMAN

AND

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

...

Bipin Kumar Pathak,
aged about 29 years
C/o. Satyanarayan Pathak,
working as Junior Accounts Assistant,
Office of the Senior Divisional
Accounts Officer, South Eastern Railway,
Khurda Road, At/PO: Jatni,
Dist: Khurda

...

Applicant

By the Advocate:

Miss Mera Ghosh
M/s. T. Mohanty
R. Mohanty
N.C. Ghosh
P. Mohanty

Versus

1. Union of India
represented through
General Manager,
South Eastern Railway
Garden Reach
Calcutta
2. Senior Divisional Accounts Officer
South Eastern Railway
Khurda Road, At/PO: Jatni,
District: Khurda

...

Respondents

By the Advocate:

Mr. L. Mohapatra,
Standing Counsel
(Railway Administration)

...

O R D E R

D.P. HIREMATH, VICE-CHAIRMAN: Heard both the learned counsels.

We find no grounds to extend time for filing objections

in view of the fact that ^{though} more than seven months have elapsed, even the counter has not been filed. It was brought to our notice by the petitioner's counsel that on ~~a~~ similar fact~~s~~ in Original Application No.241 of 1994 (copy of which order has been filed as Annexure-3 to this application) we have given the relief relying on a decision of the Hyderabad Bench. The relevant order in that case is as follows:

" It was stated that the facts of the case before us are identical to the facts of the case before the Hyderabad Bench and when the co-ordinate Bench has taken a view that para 1313(a)(iii) of the Railway Establishment Code is applicable and the pay of the Officer has to be protected, the respondents now cannot say that it was obligatory on their part to pass an order fixing the pay of the petitioner in a lower scale. Consequently the application is allowed and we direct that the pay of the applicant herein shall be fixed in the higher scale in which he was working at the time of transfer and arrear of pay from the date of reversion till the date of disposal of this application within 90 days from the date of receipt of a copy of this order."

2. It is undisputed that the facts of the case now at hand are similar to the facts of the case in Original Application 241 of 1994. That being so, we find no grounds to extend further time as the petitioner cannot be deprived of the benefits accrued to him on the settled position in a covered matter. Accordingly, we direct that the pay of the applicant shall be fixed in the higher scale in which he was working at the time of transfer and arrear of pay

from the date of reversion till the date of disposal of this application within 90 days from the date of receipt of a copy of this order.

With these observations and directions the application is disposed of. No order as to costs.

Narasimha Sahu
(N. SAHU)
MEMBER (ADMINISTRATIVE)

[Signature]
(D.P. HIREMATH) 21/3
VICE-CHAIRMAN

B.K.Sahoo//