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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH; CUTTACK.

O.A. NO. 539 of 1995.

Cuttack, this the 24th day of August, 2000.

Nimai Charan Mohanty.

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Applicant.

Vrs.

Union of India & Ors.

....

Respondents.

For Instructions.

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
24.8.2000

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 589 of 1995.

Cuttack, this the 24th day of August, 2000.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDL.).

NIMAI CHARAN MOHANTY,

Aged about 59 years,

Retired Station Superintendent,

South Eastern Railway, Khurda Road,

DIST: KHURDA.

...

Applicant.

By legal practitioner; Mr. D. P. Dhalsamant, Advocate.

- VERSUS -

1. Union of India represented through General Manager,
South Eastern Railway, Garden Reach, Calcutta-7.

2. Divisional Manager, South Eastern Railway, Khurda Road,
Dist: Khurda.

3. Senior Divisional Personnel Officer, South Eastern Rly.,
Khurda Road, Dist: Khurda.

4. Divisional Personnel Officer, S. E. Railway, Waltair (AP).

... Respondents.

By legal practitioner; Mr. Ashok Mohanty,
Sr. Counsel for Rlys.

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ORDER

S. Som
MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application u/s. 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the Respondents to step up his pay to the level of his junior named as Bh. S. Shastri. Respondents have filed counter opposing the prayer of the applicant. Averments made by the petitioner in his O.A. and Respondents in their counter need not be recorded in detail because these will be referred to at the time of considering the submission made by learned counsel for the both sides.

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2. We have heard Mr. D.P.Dhalsamant, learned counsel for the applicant and Mr. Ashok Mohanty, learned Sr. Counsel appearing for the Respondents and have also perused the records.

3. The applicant's case is that in pursuance of the order passed by the Apex Court in Civil Appeal No. 2054/1990, the Res.No.4 promoted the petitioner and in order dated 26.10.1993, which is enclosed at running page-7 of the Original Application, the seniority list of the petitioner as also B.S.Shastry, was published. In this seniority list petitioner's name stands at Sl.No.48-D whereas Mr.Shastry's name stands at Sl.No.48-L. Thus, the applicant is senior to Mr.Shastry but the applicant's pay has been fixed at Rs.600/- whereas Mr.Shastry's pay was fixed at Rs.650/- as on 1.4.1983. Applicant has represented for step up of his pay but without any result.

4. Respondents, in their counter have pointed out that Mr.Shastry is junior to the applicant but Mr.Shastry is getting higher pay because he got one advance increment as a loyal worker in not participating in 1974 strike whereas the applicant then working at Waltair gvm. had participated in the 1974 general strike and was also under suspension. The contention of the Respondents that Mr.Shastry got one advance increment because of abstaining from joining the general strike has not been controverted by the applicant by filing any rejoinder. From this it is clear that the pay of Mr.Shastry has been fixed at a higher level and the applicant's pay has been fixed at a lower level not because of application of erstwhile FR-22-C, now FR-22-(a) (1). Applicant has not mentioned in the OA that his pay was fixed at a level lower than Mr.Shastry after his promotion to any higher grade but this is mentioned in his representation at Annexure-2. From this it is also clear that fixation of pay of

J.D.M.

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Mr. Shastri, at a level higher than the applicant was made because of his getting an advance increment and not because of ~~any other~~ application of FR-22-C. In view of this, under the rules, applicant's pay can not be stepped up.

5. The application, is therefore, held to be without any merit and is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
27.8.2002

KNM/CM.