IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENEH:CUTTACK

O.A. No.241 OF 1994

Cuttack this the 10th day of May, 1995.

S. N. Shukta ... Applicant

Vrs.

Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? No

2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? No

(H. RAJENDRA PRASAD)
MEMBER(ADMINISTRATIVE)
10 MAY 95

(D. P. HIREMATH)
VICE-CHAIRMAN

1) CA 79/96 - 8.2.96.
2) CA 241/96

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No.241 OF 1994

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CORAM:

THE HON'BLE MR. JUSTICE D. P. MIREMATH, VICE-CHAIRMAN
AND
THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER(ADMN.)

Sri Sachidananda Bhokta,
Son of Late Bhikari Bhokta,
aged about 34 years,
permanent resident of
At/Po/Dist. Nowrangpur,
at present working as Assistant
Station Master, Talcher Junction
Cabin, S.E.Railway. ... Petitioner

By the Advocate ... Mr. U.C. Mohanty, Advocate.

Versus

1) Union of India represented through
General Manager South Easter Railway,
Garden Reach, Calcutta.

2) Divisional Personnel Officer,
S.E. Railway, Khurda Road,
At/Po-Jatni, Dist-Khurda. ... Respondents

By the Advocate ... Mr.L. Mohapatra, Standing
Counsel (Railways).

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ORDER

D.P.MIREMATH, V.C. The applicant who was working as Assistant Station Master under Soutly Eastern Railway in Adra Division was transferred to Khurda Division of the South Eastern Railway. When he was drawing his pay in the higher scale of Rs.1400-2300/-, his actual pay was Rs.1560/-. While effecting the transfer, an order was made by the Chief Personnel Officer that the Inter-

divisional transfer of the staff stated in the Annexure R/1 dated 8th May, 1992 was made subject to fulfilment of the conditions applicable for such Inter-Divisional transfer on own request as per extant rules. It was also stated in the said order that a declaration from them was sought to the effect that they are willing to go on transfer to the lower grade. There is practically nothing to show that such a concession was made. The Respondents have not shown us any documents to justify this order on the ground that the transfer was at his own request and when there was no post equivalent to that which he was holding, a reduction to a lower scale became necessary.

2. Challenging this stand of the Respondents, the Petitioner has produced a copy of the order rendered by the Central Administrative Tribunal, Hyderbad Bench in O.A. No. 1252 of 1994 dated 14.11.1994. The Central Administrative Tribunal of the Hyderbad Bench observed that when the applicants before it were working at Hubli Division in the pay scale of Rs. 1400-2300/- , they sought transfer from Hubli Division to Guntakal Division. As they were not entitled for transfer in the pay scale of Rs.1400-2300/-, they were transfeered to Guntakal Division inthe pay scale of Rs.1200-2040/-. But on transfer to Guntakal Division, their pay was not protected. Hence Original Application was filed seeking direction to respondents to fix their pay in terms of para 1313 (a) (iii) of the Railway Establishment Code by protecting

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their pay as on the respective dates of their inter-divisional transfers from Hubli Division to Guntakal Division. It was submitted for the respondents that the pay of those applicants was fixed at the maximum of the pay scale of Rs.1200-2040/-. It was further also pointed out that para 1313(a) (iii) of the Railway Establishment Code is applicable in case of inter-divisional transfers when such request . transfers have to be made on reversion . While the request for transfer cannot be entertained in the scale in which they were working, Para 1313(a)(iii) of the Railway Establishment Code lays down that the pay of the officer has to be protected in such case. As the pay of the applicants is not protected, it is a case where a direction has to be given to the respondents for fixing the pay of those applicants in accordance with para 1313(a)(iii) of the Railway Establishment Code. In the result the application was allowed and direction was made accordingly.

3. It was stated that the facts of the case before us are identical to the facts of the case before the Hyderbad Bench and when the co-ordinate Bench had taken a view that para 1313(a)(iii) of the Railway Establishment Code is pplicable 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 shall be paid 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.

(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)
10 MAY 95

(D.P.HIREMATH)
VICE-CHAIRMAN

KNMohanty,CM.

Serial No. of the copy application: 79.
Name of the applicant: Sri S.C. Pushpalata
Date of presentation of application: 30.X.95
No. of pages: 9 (Nine)
Coping fee charged / urgent or ordinary: Rs9/-
Date of presentation of copy: 1.11.95
Date on which copy is ready: 1.11.95
Date of delivery: 1.11.95.

TRUE COPY

Section Officer,
Central Administrative Tribunal,
Cuttack Bench, Cuttack.

Certified that this is a true and accurate copy of the document/order as in the case file (OA/~~RA/TA/CP/MA~~ PT No. 241/94 and that all the matter appearing therein have been legibly and faithfully copies with no modifications.

Section Officer, 01.11.95.
Central Administrative Tribunal,
Cuttack Bench, Cuttack.