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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 311 OF 1998
Cuttack this the 25th day of February, 2000

Basudev Barik

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

2000

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ORIGINAL APPLICATION NO.311 OF 1998
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CORAM:

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

Basudev Barik, aged about 20 years
Son of Hrusikesh Barik
At: Andarai, PO: Galagandapur,
PS: Tihidi, Dist: Bhadrak
at present working as A.S.M.
South Eastern Railway, Baudpur (Bhadrak)
Railway Station, Khurda Division, Khurda Road
Khurda

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Applicant

By the Advocates : M/s.P.C.Das
S.K.Mishra

-Versus-

1. Union of India through its General Manager
of South Eastern Railway, Garden Reach
Calcutta
2. Divisional Manager, South Eastern Railway
Khurda Division, Khurda Road
Khrda
3. Station Master, South Eastern Railway
Boudpur Railway Station (Bhadrak)
Khurda Division, Khurda Road, Khurda

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Respondents

By the Advocates : Ms. C.Kasturi
Addl.Standing Counsel
(Railways)

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S.M.

ORDER

MR.SOMNATH SOM, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for a direction to respondents to pay him basic scale of pay at the rate of Rs.1440/- as per his initial fixation of pay and for payment of arrears of salary as per revised pay fixation.

2. The case of the applicant is that he was initially appointed as Station Master on 8.7.1991 at Bombay in the scale of Rs.1400 - Rs.2300/-. On his own request he was transferred on inter-divisional transfer and joined as Assistant Station Master at Talcher in an existing vacancy on 21.6.1996. After his joining at Talcher his pay was reduced to Rs.1200/- and he was not given the pay protection fixing his pay at Rs.1440/-. This according to him is against the instructions. He has also stated that after revision of pay from 1.1.1996 he is entitled to get the higher scale of pay and this has also been denied to him. In the context of the above facts he has come up in this application with the prayers referred to earlier.

3. Respondents in their counter have stated that the applicant was initially appointed in Western Railways as Assistant Station Master in the scale of Rs.1200-2040/- on 1.1.1992. He was promoted to the post of Station Master in the scale of Rs.1400-2300/- in order dated 5.1.1995 and his pay was fixed in the promotional grade as Station Master at Rs.1400/- and after one increment his pay became Rs.1440/- as on 1.1.1996. On his request he came to S.E.Railway on transfer accepting the scale of initial recruitment grade at Rs.1200-2040/- on reversion from the post of Station Master. This was according to rules, because, inter-divisional transfer/inter-railway transfer

is only possible in the initial recruitment grade. According to ^{them,} he was rightly put in the scale of Rs.1200-2040/- in respect of Assistant Station Master and his pay was fixed at Rs.1320/- taking into account the total number of increments counted for his past service both as Assistant Station Master and Station Master in his parent railways. Respondents have further stated that the applicant's last pay drawn in the Western Railways at Rs.1440/- could not be protected because he has ^{not} rendered 24 months of continuous service in the promotional grade and before that he came away on transfer. It is further stated that as the applicant's pay was fixed at Rs.1320/-, after coming into force the 5th Pay Commission Report, his scale of pay was fixed at Rs.4625/- in the scale of Rs.4500-7000/ as on 1.1.1996 and again at the stage of Rs.4875/- in the scale of Rs.4500-7000/- on 1.7.1997. He was also promoted as Station Master in the scale of Rs.5000-8000/- on 2.3.1999 and his pay was fixed at Rs.5150/-. Respondents have further stated that pay fixation of the applicant has been done strictly in accordance with rules. On the above grounds respondents have opposed the prayer of the applicant.

4. Applicant in his rejoinder has reiterated the averments made by him in the Original Application and we have taken note of the same.

5. We have heard Shri P.C.Das, learned counsel for the petitioner and Ms.C.Kasturi, learned Addl.Standing Counsel appearing for the respondents(Railways) and have prsued the records.

5. An identical matter came up for decision of the Tribunal in O.A. 355/02 which was disposed of in order

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dated 30.3.1998. In that case also the petitioner came on inter-railway transfer. In his parent railways he was in the scale of Rs.1400-2300/- and he came on transfer and got the scale of Rs.1200-2040/-. But his pay actually drawn by him in the original railway was not protected. The Tribunal took note of the Establishment Serial No.50/95 which provided that when a Rly.. servant holding the higher post substantively on regular basis seeks transfer to a lower post and when the pay drawn in the higher post is less than or equal to the maximum scale of lower post, his substantive pay has to be protected. This amendment came into force in 1995. Even prior to this amendment it was provided that if the pay drawn by the transferred official in the original seniority unit in the higher grade to which he was promoted on regular basis is higher than or equal to maximum of scale of lower post to which he was brought in the new seniority unit then he would get the maximum of the scale of pay of the lower post. In view of this it is clear that fixation of pay of the applicant in the scale of Rs.1200-2040/- on his joining at Talcher is correct. But while fixing his pay in the scale of Rs.1200-2040/-, his pay at Rs.1440/- drawn by him in the Western Railway is to be protected. We order accordingly. Respondents are directed to issue orders protecting the pay of the applicant at Rs.1440/- in the scale of Rs.1200-2040/- within a period of 90(Ninety) days from the date of receipt of this order and work out the arrears and pay the same to him within a period of another 60(Sixty) days thereafter. While fixing pay of the applicant in the above fashion, respondents should also take into account the new pay scale which has been

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by them
brought about / on implementation of the 5th Pay
Commission' Recommendation and work out the pay of the
applicant accordingly.

With the above direction and observation the
Original Application is allowed, but without any order as
to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO

(SOMNATH SOM)
VICE-CHAIRMAN