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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH;CUTTACK.

ORIGINAL APPLICATION NO.603 OF 1998.

Cuttack, this the 1st day of October, 1999.

Jogi Barik.

....

Applicant.

Versus.

Union of India & Others.

....

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)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 603 OF 1998.

Cuttack, this the 1st day of October, 1999.

C O R A M:

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

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Jogi Barik, aged about 61 years,
Son of late Panchu Barik,
Ex-gangman, under S. E. Rly,
Khurda Division, permanent
resident of Vill. Barithengarh,
Ps. Barachana, Dist. Jajpur.

... Applicant.

By legal practitioner : M/s. S. N. Misra, N. R. Routray, Advocates.

-VERSUS-

1. Union of India represented through its
General Manager, S. E. Railway, Garden Reach,
Calcutta-43.
2. Chief Personnel Officer, SE Railway,
Garden Reach, Calcutta-43.
3. Chief Administrative Officer(P),
S. E. Railway, At/Po. Bhubaneswar,
Dist. Khurda.
4. Chief Personnel Officer, SE Railway,
At/Po. Bhubaneswar, Dist. Khurda. ... Respondents.

By legal practitioner : M/s. Surath Roy, A. Khan, K. Panigrahi,
Additional Standing Counsel.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

S. Som . In this Original Application, under section 19
of the Administrative Tribunals Act, 1985, applicant has
prayed for a direction to the Respondents to pay the
differential pay and allowances to him from 1.4.1973 to
9.1.1989 on the basis of orders at Annexures-1 & 2.

2. We have heard Mr.N.R.Routray,learned counsel for the Applicant and Mr.S.Roy,learned Additional Standing Counsel appearing for the Respondents and have also perused the records. For the purpose of considering this Original Application,it is not necessary to go into too many facts of this case. Admitted position is that applicant was working as Casual Gangman in the Railways. His services were regularised and later on the regularisation was dated back to 1.4.1973 against the Permanent Construction Reserved post.As a result of this, applicant became entitled to differential pay and allowances for the period from 1.4.1973 to such dates on which he has actually worked under the Respondents. His grievance is that even though such order has been passed, the differential pay and allowances, have not been calculated and paid to him.He has retired on superannuation on 30.6.1995.That his how, he has come up in this Original Application with the prayer referred to earlier.

3. Respondents,in their counter have pointed out that after creation of PCR posts,services of applicant and many others were regularised and later on such regularisation was dated back to 1.4.1973.This resulted in such persons becoming entitled to differential pay and allowances from 1973 for the perior they have actually worked under the Respondents.But as these related to old periods, and records were not available,the Respondents found it difficult to calculate and pay the differential amount.A proposal was,therefore,noted by the administrative side to make ^{payment} a lump sum of Rs.6000/-to such employees and close

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J. Som.

the same but this was not agreed to by the accounts wing of the Railways and as such, the Departmental Authorities are in the process of calculating the actual amount due to be paid to the applicant and similarly situated persons and for this, they require ^{1/2} year time, for making payment.

4. It is submitted by learned Additional Standing Counsel that the amount became due from 1973 and the applicant having approached the Tribunal in 1998, the application is barred by limitation. We are not prepared to accept this contention because the whole process of regularisation was done much later than 1.4.1973 and dating back also took further delay. Moreover, the claim of the applicant is for differential pay and allowances, which have also been admitted by the Respondents. Claim can not be thrown out of court merely on the ground of passage of time. In consideration of the above, this contention of the learned Additional Standing Counsel is rejected. After hearing learned counsel for the both sides, we dispose of this Original Application with a direction to the Respondents that the differential amount as may be due strictly in accordance with rules, should be paid to applicant, within a period of eight months from the date of receipt of a copy of this order. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.