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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.99 OF 1998  
Cuttack this the 4th day of September, 1998

PRONOUNCED IN THE OPEN COURT

Loknath Panda

Applicant(s)

-Versus-

Union of India & Others

Respondents

(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*  
(SOMNATH SOM)  
VICE-CHAIRMAN

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CORAM:

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

...  
Lokanath Panda aged about 57 years,  
S/o.Bansi Panda, At-Tarasa,  
Po:Jenapur, P.S.Dharmasala  
Dist:Jajpur

... Applicant

By the Advocates:Mr.N. Panda

-Versus-

1. Union of India represented by  
Senior Divisional(Electrical)Engineer,  
South Eastern Railway,  
At/Po:Khurda Road, Dist:Khurda
2. Chief Project Manager  
South Eastern Railway,  
At/Po:Chndrasekharapur,  
Bhubaneswar, Dist:Khurda

... Respondents

By the Advocates:M/s.D.N.Mishra,  
S.K.Panda

...  
ORDER

J Jm  
MR.SOMNATH SOM, VICE-CHAIRMAN:In this application under  
Section 19 of the Administrative Tribunals Act, 1985, the  
petitioner has prayed for a direction to the respondents  
to pay him differential salary from 9.10.1994 till to-day  
with interest and transfer allowance and bonus.

2. The facts of this case according to petitioner  
are that he was working as Bridge Khalasi in the  
S.E.Railway under the Construction organisation. After  
coming into force of the 4th Pay Commission

recommendation with effect from 1.1.1986 his pay was fixed from 1.1.1986 at Rs.950/- in the scale of Rs.950 to 1500 and in pursuance of the order passed by the Tribunal in O.A.95/96 in order No.147/96<sup>issued by</sup>/the Senior Project Manager, his increments as on 1.1.1987 to 1.1.1996 were also fixed. The case of the petitioner is that as on 1.1.1994 he was drawing the pay at Rs.1110. On 1.10.1994 he was transferred to Open Line where he joined on 9.10.1994 under the Senior D.E.N.(Coordination). The case of the petitioner is that after he joined in the Open Line under Sr.DEN(Coordination) on 9.10.1994 he was given the pay of Rs.875/- instead of Rs.1110/-. It is further submitted that in April, 1998 he came back from the Open Line to Construction Organisation and retired on 30.4.1998. After he returned to the Construction Organisation he was not given the scale of Rs.950-1500/- in accordance with the order at Annexure-1. This is how he has come up in this application for getting the differential salary. His second prayer is that while he went from Construction Organisation to Open Line he made a claim for transfer allowance and similarly when he came back from Open Line to Construction Organisation in April,1998, he also made a claim for transfer allowance, but these amounts have not been paid to him. It is submitted by the learned counsel for the petitioner that the petitioner and several other persons similarly placed filed representations before the Chief Project Manager and the order of the Chief Project Manager is at Annexure-2. In this order the Chief Project Manager has stated that paying the staff salary in the lower scale is highly irregular. He has also mentioned that the staff

stated that paying the salary in the lower grade is highly irregular. He has also mentioned that the staff should be repatriated from Open Line to Construction Organisation. In accordance with this the petitioner has come back to the Construction Organisation where he has retired, but he has not been paid his transfer allowance as also the bonus.

3. Respondent No.2 in his counter has indicated that the applicant was transferred from Construction Organisation to Open Line in administrative interest in the same capacity and same scale and there was no reason for Sr.D.E.N., Khurda Road for making payment of salary at a lower grade than the scale of pay drawn by the petitioner prior to his transfer, but as during that period he was working under Sr.D.E.N.(Coordination), Khurda Road, he is to make payment of the differential amount. With regard to payment of bonus and transfer allowance it has been stated that these payments have not been made by Sr.D.E.N.(Coordination) Khurda Road.

4. We have heard Shri N.Panda, learned counsel for the petitioner and Shri D.N.Mishra, learned Standing Counsel appearing on behalf of the respondents.

From the averment of the parties it is clear that major part of payments have to be made by the Sr.D.E.N.(Coordination) Khurda Road in Open Line organisation. The applicant has not made him a party-respondent. But as the applicant has already retired in April, 1998, and according to learned counsel for the petitioner he is going without retiral benefits,

we do not see that any purpose will be served by giving further notice to Sr.D.E.N.(Coordination) Khurda Road, more so, when in the counter by his parent organisation, viz., Construction Organisation, it has been indicated that he was transferred in the same capacity and same scale of pay to Open Line organisation and there is no reason why a lower scale of pay was given to him in the Open Line organisation. In view of this the first prayer of the applicant is disposed of with a direction to Sr.D.E.N.(Coordination), S.E.Railway, Khurda Road to pay the petitioner his scale of pay as fixed vide Annexure-1 minus the amounts already paid to him within a period of 60 days from the date of receipt of copy of this order. As regards the payment to the petitioner for a few days in the month of April, 1998, after his return to the Construction Organisation, Respondent No.2 is directed to make payment of the differential amount, if any, due to him, strictly in accordance with rules within a period of 60 days minus the amount already paid to him. The first prayer of the applicant is disposed of accordingly.

J.M.  
As regards his transfer allowance for his going to Construction Organisation from Open Line in October, 1994 and again coming back from Open Line to Construction Organisation in April, 1998, it is submitted by the learned counsel for the petitioner that at the relevant time he has made a proper claim to the departmental authorities which has not yet been paid to him. No averment to that effect has been made in the O.A. In view of this, this prayer of the petitioner is disposed of with a direction to that Sr.D.E.N.(Coordination),

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S.E.Railway, Khurda Road and Res.2 which is as under :

In case the applicant has submitted transfer T.A. claims at the relevant time for his transfer from Construction Organisation to Open Line in the Month of October, 1994 and his transfer back from Open Line to Construction Organisation in April, 1998 and the same is lying undisposed of, then Senior D.E.N.(Coordination) S.E.Railway, Khurda Road and Respondent No.2 should dispose of the claim of the petitioner strictly in accordance with rules within a period of 60 days from the date of receipt of this order.

As regards payment of bonus, we have not gone into the question whether from 1994 to 98 the applicant is entitled to bonus and of what length of time and whehter he was on leave and whether the bonus is due to be paid to him. This prayer is disposed of with a direction to Sr.D.E.N.(Coordination) and Res.2 to make payment of bonus to the petitioner if he is entitled to same strictly in accordance with rules, if the same has not already been paid to him, within a period of 60 days from the date of receipt of this order.

J. Som

5. The petitioner has made a prayer for payment of interest on the differential amount. In this case the petitioner is a retired employee and for no reason he has been paid at a lower grade than what he is entitled to. In view of this it is ordered that in case the payment of differential amount as directed above is not paid to the petitioner within a period of 60 days from the date of receipt of this order, then from that date till the

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actual payment of differential amount, he should be paid interest at the rate of 12 per cent.

With the above direction the O.A. is disposed of leaving the parties to bear their own costs.

(G.NARASIMHAM)  
MEMBER(JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN

B.K.SAHOO, C.M.