

ORDER DATED 20-12-2001.

We have heard Shri U.N. Mishra, Learned Counsel for the Applicant and Madam R. Sikdar, Learned Additional Standing Counsel for the Respondents and have also perused the records.

In this Original Application, the Applicant has come to this Tribunal seeking the following reliefs at para 8 of the Original Application:

**"8. RELIEF(S) SOUGHT:**

(i) In view of the facts mentioned above the applicant prays for the following reliefs:

- (i) That the Hon'ble Tribunal be pleased to direct the Respondents for Regularisation of Service from the beginning and fixation of pay and for payment of the arrear dues to the applicant taking into consideration of the entire service period;
- (ii) And any other relief by way of direction/ directions as this Hon'ble Tribunal deemed fit and appropriate may also please be allowed."

Respondents have filed their counter explaining their stand and we have perused the same. From para-8 of the Original Application, it is seen that the first prayer made by the applicant is for a direction to the Respondents to regularise the service of applicant from the beginning and for fixation of pay and for payment of arrears to the applicant taking into consideration the entire service period. Applicant himself has mentioned in para-4 of the Original Application

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Contd....Order dt.20.12.2001.

that he started his service career on 24-11-1967 as a Gangman under PWI, Kalupada Ghat. Respondents in para 3, page 4 of their counter have stated that the applicant joined as Gangman under PWI on 24-11-1967. Thus, the date of initial joining of applicant on 24-11-1967 is admitted between the parties. Respondents have further stated in this paragraph that applicant's service has been regularised with effect from the date of joining as Gangman w.e.f. 24-11-1967 in AEN Cuttack's letter dated 26-12-1973. From this it is clear that the first prayer of applicant to regularise his service from 24-11-1967 has already been granted by the Respondents long before filing of this O.A. and this prayer is totally misconceived.

Respondents have further stated that the applicant was confirmed in the post of Gangman on 24-6-1973. The Respondents have further stated that while the applicant was working as Gangman, he was medically declassified from BEE to CEE one category and accordingly he was given alternative appointment in the post of Chowkidar in the scale of Rs.192-232/- . He joined the post of Chowkidar on 4-7-1977. It is stated that while he was working as Gangman at the time of declassification his pay was Rs. 218/- in the scale of Rs. 200-250/-. After declassification and posting as Chowkidar, his earlier pay in the category of Gangman was protected and his pay was fixed at Rs. 217/- alongwith Rs.1/- as personal pay in the scale of Rs.196-232/-. It is further stated that on 1.8.1982, applicant was promoted from the post of Junior Chowkidar to the scale of Rs.196-232/- to the post of Sr. Chowkidar in the

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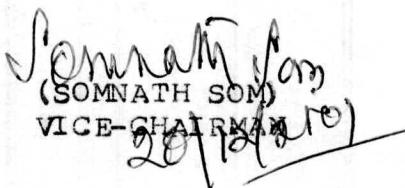
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scale of Rs. 200-250/-.. Respondents have stated that the applicant is currently holding the post of Senior Chowkidar in the scale of pay which has been revised to Rs. 2610-3540/- on the basis of the 5th Pay Commission's revised scale of pay rules.

Second prayer of the applicant is for a direction to the Respondents for fixation of pay and payment of arrear dues to the applicant. Applicant has not made any averment as to what payment is due to be received by him. This prayer made by the applicant has to be seen in the context of his prayer that he should be regularised from 24-11-1967 which has already been done.

In view of this, we find no subsisting prayer in this OA which is accordingly disposed of for having become infructuous. No costs.

  
(NITYANANDA PRUSTY)  
MEMBER(JUDICIAL)

  
Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
20/12/01

KNM/CM.

Free copies of final  
order dt. 20.12.01 issued  
to counsel for both sides.

DB  
20/12/01

Pr  
SOM(I)