

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.1082 of 2003.
Cuttack, this the 10th day of August, 2005.

BAIDHAR MALLICK

APPLICANT.

VERSUS

UNIOIN 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 CAT or not? *yes*

Subs
(B.N.SOM)
VICE-CHAIRMAN

10/08/05
(M.R.MOHANTY)
MEMBER (JUDICIAL)

V
**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

**Original Application No. 1082 of 2003
Cuttack, this the 10th day of August, 2005.**

C O R A M:-

**THE HON'BLE MR. B.N.SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDL.)**

Sri Baidhar Mallick, aged about 64 years,
S/o.Late Rama Chandra Mallick,retired as
Head Skilled Fitter Gr.II (Electrical) under
Electrical Foreman, Puri, the then S.E.Railway,
Residing at Haripur, PO:Godiputmatiapada,
District- Puri. **APPLICANT.**

For the Applicant : Mr. Achintya Das, Advocate.

VERSUS

1. Union of India service through General Manager,
E. Co. Railway, Chandrasekharpur, Bhubanesar,
Pin-751 023.
2. Divisional Railway Manager,E.Co. Railway,
Khurda Road, Po. Jatni, Dist.Khurda-50.
3. Sr. Divisional Personnel Officer, E.Co. Railway,
Khurda Road, Po. Jatni, Dist. Khurda-50.
4. Sr. Divisional Accounts Officer, E.Co. Railway,
Khurda Road, Po. Jatni, Dist. Khurda,Pin. 50... **RESPONDENTS.**

For the Resondents: Ms. S.L.Patnaik, Advocate.

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O R D E R

MR. M.R.MOHANTY, MEMBER(JUDL.)

The case of the Applicant falls in a short compass and can be briefly stated that while he was working as High Skilled Fitter Gr.I, under the Electrical Foreman (at Puri) of E. Co. Railways, he superannuated from Railway Service on 31-10-1997. His claim is that he was due to get some differential arrear Allowances (such as City Compensatory , Dearness, Night Duty , House rent and Packing etc.) due to implementation of the Vth Pay Commission Report but inspite of several representations the same have not paid to him. Hence, by filing this Original Application under section 19 of the Administrative Tribunals Act, 1985, the Applicant has made the following prayers:-

“8.1. to make the payment of Pay Commission arrears, packing allowance, Night Duty Allowance and House Rent Allowance basing on the revised scale of pay of the Applicant owing to the implementation of Vth Pay Commission’s recommendations;

8.2. to direct the Respondents to pay interest @ 12% on the amount of arrears due to the Applicants on account of the above arrears from the date of implementation of the Vth Pay Commission’s Report till the time of actual payment.”

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2. Respondents have filed a counter stating therein that, except Night Duty Allowance, all other differential arrear dues (consequent upon implementation of Vth Pay Commission Report) had been sanctioned and paid to the Applicant on different dates after taking the thumb impression of the Applicant. As regards Night Duty Allowance, it has been disclosed by the Respondents that as records are not readily available, after searching all the records, if it is found that he had actually performed Night duties and he is otherwise entitled to the same as per rules, the same will be paid to the Applicant.

3. Heard learned counsel for the parties and perused the materials placed on record. By placing on record Xerox copies of Acquittance Roll (as Annexure/A to the notes dated 12.04.2005 of Ms. S.L.Patnaik, Learned Counsel Appearing for the Railways), it has been pointed out that the Applicant received Rs. 8,677/- by affixing his left thumb impression on the revenue stamp affixed to the said Acquittance Roll; copy of which is at Annexure-A/A of the Respondents' brief. Applicant, who was present in court to assist his Advocate Mr. A. Das, emphatically stated that cash of Rs. 8,677/- has not yet been received by him. Ms. Patnaik, learned Counsel for the Railways pointed out, in course of hearing, that the LTI of the Applicant as available in Annexure-A and Annexure-B to her

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note were verified by the finger print Inspector of the Railways and found to be identical to that of admitted LTI of the Applicant In absence of the said written report of the finger print Inspector of the Railways, it is not possible on our part to accept the LTI marked on Annexure-A to be that of the Applicant; especially, on the face of the dispute raised by the Applicant in our presence.

4. Mr. Das, learned counsel for the Applicant states that the finger print expert of the Railways is stationed at Nagpur and, in all fairness, report from him should have been called for to resolve the dispute. It is also known that finger print experts in Orissa Police Establishment are stationed at Bhubaneswar; from whom expert opinion ought to have been obtained.

5. In the above premises, this Original Application is disposed of requiring the Respondents to place the original documents (copies of which has been placed before us as Annexure-A) before the Senior Finger Print Expert and in the event it is found that the LTI available on Annexure-A to be not that of the Applicant, then they should disburse Rs. 8,677/- to the Applicant; which exercise should be completed within a period of one hundred and twenty days from the date of receipt of a copy of this order.

6. As regards payment of Night Duty Allowance, the Respondents are hereby directed to check up the records and if it is found that the

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Applicant is entitled to any amount under the said head, then the same should be paid to the Applicant within the above said time framed.

7. With the aforesaid observations and directions, this O.A. is disposed of. No costs.


(B.N.SOM)
VICE-CHAIRMAN


(M.R.MOHANTY)
MEMBER(JUDICIAL)