

10


CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.


O.A.NO. 135 of 2005

Cuttack, this the ~~13th~~ day of August, 2008

Nrusingha Sahu Applicants
Versus
Union of India & Ors. Respondents

3. Whether it be referred to the reporters or not?
4. Whether it be circulated to all the Benches of the Tribunal?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.NO. 135 of 2005

Cuttack, this the 13th day of August, 2008

C O R A M:

THE HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER (J)

A N D

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

Nrusingha Sahu, aged about 64 years, Son of Natha, Retd. Head Trolleyman under Dy.CE/D-II/BBS/S.E.Rly., permanent resident of Village Sathuapatna, PO. Marijitapur, PS. Dharmasala, Dist. Jajpur

.....Applicant

By legal practitioner: M/s.N.R.Routray, S. Mishra, Counsel.

-Versus-

1. Union of India represented through its General Manager, East Coast Railway, Railway Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. Dy. Chief Personnel Officer (Con.), S.E.Railway, now East Coast Railway Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Chief Administrative Officer (Con.) East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. FA & CAO (Con.), East Coast Railway, Rail Vihar, Chandasekharpur, Bhubaneswar, Dist. Khurda.

.....Respondents

By legal practitioner: M/s. S.K.Ojha, A.K.Sahoo, Counsel.

12 ✓

ORDER

MR. C.R. MOHAPATRA, MEMBER (ADMN.):

Applicant is a retired Head Trolley man of the Railway. He retired from service on 31.05.2001. He has filed this Original Application challenging the action of the Respondents in not up-grading his scale of pay with effect from 01.10.1999 i.e. after completion of 12 years of regular service in his existing grade pursuant to the ACP Scheme floated by the Government of India and adopted by the Railway under Annexure-A/1 dated 01.12.1999 although said benefits have been given to similarly situated persons of the Railways. Hence, in this OA he has sought for, the following relief:

- “(a) To direct the Respondents to grant first financial up-gradation as per the ACP Scheme under Annexure-A/1 of the Original Application from 01.10.1999 and pay the differential arrear salary till the date of retirement;
- (b) And direct the Respondents to pay the revised arrear pension, DCRG, Commutation and Leave Salary with 12% interest;

And pass any other appropriate order as deems proper and fit in the interest of justice.”

2. Respondents filed their counter opposing the prayers of the Applicant. The grounds of such opposition of the prayer of the Applicant

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ascribed by the Respondents are that the Applicant was initially engaged in the Railway as a Casual labourer and was conferred with temporary status with effect from 01.01.1981. While continuing as such he had been granted PCR status in a Group D post in the scale of pay of Rs.750-940/- w.e.f. 01.04.1984. Thereafter, the applicant was allowed to work in a higher grade purely on officiating basis as Head Trolley Man and had been enjoying the benefit of higher scale of pay of Rs.2650-4000/- much prior to 01.10.1999. In terms of S.E.Railways' Estt.Srl.No. 288/99 the Screening Committee considers only those cases who are eligible for financial benefits under the Scheme. The substantive status of the applicant being in a Group D post, in the scale of pay of Rs.750-940/- (revised to Rs.2550-3200/-) and as he was enjoying the next higher grade of Rs.2650-4000/- on ad-hoc basis much prior to the scheme came into force/01.10.1999, he was not entitled/ eligible to get any further financial benefits . Accordingly, the Respondents prayed that this OA being devoid of any merit is liable to be dismissed.

3. By filing rejoinder the Applicant has stated that he was regularized against 60% PCR post vide order dated 16.07.1992 in the scale of

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Rs.750-940/- w.e.f. 01.04.1984 but he had never received the salary in the said grade and all along he was getting his salary in the scale of Rs.800-1150/- w.e.f. 1.1.1986 being a Head Trolley man and the scale was subsequently revised to 2650-4000/ and hence is entitled to the next higher scale under the ACP Scheme.

4. Heard Learned Counsel for both sides and perused the materials placed on record. Clause 5.1 of the ACP scheme under Annexure-A/2 dated 01.12.1999 provides as under:

"5.1. Two financial up-gradations under the ACP scheme in the entire Railway service career of an employee shall be counted against regular promotions (including in-situ promotion and/or any other promotion including fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial up-gradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial up-gradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotion on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him."

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5. It is the specific case of the Applicant that though he was regularized in Group D carrying the scale of Rs.750-940/- vide order under Annexure-A/5 dated 16.7.1992 w.e.f. 01.04.1984, he was drawing the pre-revised scale of pay of Rs.800-1150 which was revised to Rs.2650-4000/-. He was never promoted to the post carrying the scale of pay of Rs.800-1150/-. According to the Respondents the substantive post of applicant is Gr. D carrying the scale of Rs.750-940/- but he was given ad-hoc/officiating promotion to the post carrying the scale of Rs.800-1150/-. The Applicant has filed another OA No. 722 of 2006 seeking fixation of his pay in higher scale. Respondents in their counter opposed the contention of the Applicant by stating that the Applicant is not entitled to the relief claimed in the said OA. It has been stated in the counter that the service of applicant was regularized against PCR Group D post w.e.f. 1.4.1984 in scale of Rs.196-232/- = Rs.750-940/- and he was allowed to continue as Head Trolley man in scale of Rs.210-290/- = Rs.800-1150/- against PCR Hd. Trolley man post w.e.f. 01.04.1984 under DEN/Reg/CTC as per the post concurred vide FA & CAO/C/GRC's letter No. FE/Construction/Reserve/Vide Pt.I dated 04.12.1987 and sanction of

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12 GM/SERly/GRC was communicated vide CPO/S.E.Rly/GRC's letter No. P/R/17/PR-CR/Pt.IV dt. 26.5.1988 . The above PCR post was created by the CE/C/GRC (Bridge Project) basing on the worth of construction charges. It has further been averred that as the Head Trolley man post was created in scale of Rs.800-1150/- vide CPO/GRC's letter dated 26.05.1988 the applicant was granted the said scale basing on the sanctioned post created by CPO/SE Rly/GRC w.e.f. 1.4.1986. The scale of Rs.800-1150/- was subsequently revised to Rs.2650-4000/- w.e.f. 1.1.1996 and the applicant was allowed to draw the same scale till his retirement. In view of the above, the stand of the Respondents that the Applicant was drawing the scale of Rs. 2650-4000/- on ad-hoc basis is neither proved on fact nor is based on any evidence. As such, non-conferment of benefit of ACP after completion of 12 years regular service on the Applicant cannot be approved.

6. In the result, the Respondents are hereby directed to grant the Applicant first up-gradation benefits under ACP after completion of his 12 years of service. The Respondents are also directed to revise/re-fix the pay, pension and all other pensionary benefits of the Applicant and pay him the arrear dues

2

retrospectively. All drills shall be completed by the Respondents within a period of 60 days from the date of receipt of copy of this order.

7. This OA stands allowed to the extent stated above. There shall be no order as to costs.

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(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

hant
(C.R. MOHAPATRA)
MEMBER (ADMN.)

KNM/PS.