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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

O.A.No. 844 of 2005

Thun Day, this the 22nd day of November, 2007

CORAM:

**HON'BLE DR K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE MR TARSEM LAL, ADMINISTRATIVE MEMBER**

Jaladhar,
D/o. Danardan,
Village Ramachandrapur,
P.O. Saragada Mukundapur,
P.S. Dharmasala, Dist. Jajpur,
Retd. Bridge Khalasi/Con/Engg/JE/P.Way/CTC. : Applicant.

(By Advocate M/s. N.R. Routray & S. Misra)

v e r s u s

1. Union of India, represented through the
General Manager, East Coast Railway,
Rail Vihar, Chandrasekhapur,
Bhubaneswar, District Khurda.
2. Senior Personnel Officer (Con.),
East Coast Railway,
Rail Vihar, Chandrasekhapur,
Bhubaneswar, District Khurda.
3. Chief Administrative Officer (Con.),
East Coast Railway,
Rail Vihar, Chandrasekhapur,
Bhubaneswar, District Khurda.
4. F.A. & C.A.O (Con.),
East Coast Railway,
Rail Vihar, Chandrasekhapur,
Bhubaneswar, District Khurda.
5. Dy. CPO (Con.),
East Coast Railway,
Rail Vihar, Chandrasekhapur,
Bhubaneswar, District Khurda. : Respondents.

(By Advocate M/s. S.K. Ojha & A.K. Sahoo)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicant was initially engaged as casual Khalasi under BRI/SER/CTC in Feb., 1972, and was granted temporary status with effect from 1.1.1981 as Bridge Khalasi in the scale of 210-290. Under the 60% PCR Posts, his services were regularised with effect from 1.4.1984 and he was placed in the scale of 750-940. With effect from 11.4.1985, the status of Bridge Khalasi was converted from semi-skilled to skilled with an upward revision of pay scale of Rs. 260-400. By an order of this Tribunal, the pay scale of 950-1500 was made available to all the skilled Bridge Khalasis. Thus, all the Bridge Khalasis earlier placed in Rs. 210-290 (revised as Rs. 800-1150) had been placed in 950-1500, whose replacement scale was 3050-4590. The Railways have introduced ACP Scheme for grant of financial upgradation to those who did not get any promotion, after 12/24 years of service. The applicant has superannuated on 28-02-2001 and at that time he was in the pay scale of Rs 3,050 – 4,590. As he found that he was not considered for ACP, he filed OA No. 1174/2004 which was disposed of by order dated 16-12-2004 with a direction to the respondents to treat the very OA as a representation and dispose of the same. It is in response to the same that the respondents had passed the impugned order dated 11-08-2005/31-08-2005 (Annexure A-8) whereby they have rejected the claim of the applicant holding that the applicant had been regularized in the scale of Rs 2,550 – 3,200 w.e.f. 01-04-1984 and had been promoted to the post of Br. Khalasi in the scale of Rs 3,050 – 4,590 w.e.f. 01-04-1988 and as such, unless he completed 24 years of service, no ACP would be available. As the applicant has put in only 20 years of service on the date of his superannuation, he is not entitled to the ACP benefits. It is against this order that the applicant has moved this OA.

2. Respondents have contested the OA stating that the applicant having been granted one promotion and he not having 24 years of service for 2nd ACP, his claim is not permissible under the Rules.

3. Applicant has filed his rejoinder contending that though the applicant was earlier placed in the scale of Rs 750 – 940, subsequently with retrospective effect he was placed in Rs 210 – 290 scale which was later on revised to Rs. 800 – 1140 and on the basis of the decision of the Tribunal in OA No. 206/1989, this scale of Rs 800 – 1140 was revised upwardly to Rs 3,050 – 4,590. The applicant further contended that he had been inducted as Bridge Khalasi on regular basis with effect from 01-04-1988, though his initial engagement was casual in the said post.

4. Arguments were heard and documents perused. This case is identical to the other cases vide OA No. 740.05 wherein the following order was passed.

"4. Arguments have also been heard and pleadings perused. The factual position as per the records is that the applicant's initial appointment has been indicated as "casual" w.e.f. 05-12-1972. There is absolutely no indication in the service records of his initial pay scale as Rs 196 – 232. Pay scale as per entry 14 of the First page of the service book is Rs 210 - 4 - 250 - EB - 5 - 270 and date of first appointment is indicated as "cpc 1-1-1984 - 1-1-01". Subsequent entries show that the applicant had been granted increments in 1982, 83, 84, 85 and 1986 when his pay was fixed at Rs 230/-. Thereafter, applying the revised pay scale as per the Pay Commission's recommendation, the pay of the applicant was fixed in the scale of Rs 800 - 1150 at Rs 890/- with the next date of increment as 01.01.1987. This scale was continued to be available to the applicant till the pay scale was revised with retrospective effect from 01-01-1986 as Rs 950 - 1500 when the pay was fixed at Rs 1150 as on 01-01-1996 and replaced further by the scale of Rs 3050 - 4590 when the pay was fixed at Rs 3575/- with next date of increment as 01-01-1997. Thus, there is no whisper about Rs 196 - 232 pay scale in the service book. The applicant has all along been treated w.e.f. 01.01.1981 as Bridge Khalasi and as such he had not been afforded any promotion. Hence, he is entitled to the ACP taking into account his temporary status w.e.f.

01-01-1981 and as regular from 01-04-1984. Thus, w.e.f. 09.08.1999 when ACP was introduced, the applicant shall be entitled to first financial upgradation in the scale of Rs 4,000 - 6,000/-. His entitlement to first ACP ought to have been given w.e.f. 09-08-1999 in the aforesaid scale of Rs 4,000 - 6000/- whereas he was granted the same w.e.f. 01.04.2000 and it has been treated as the second financial upgradation, whereas it is the first. Respondents are directed to verify only the period of temporary service and regular service and if the same tallies with the above, the applicant's case be considered for grant of ACP w.e.f. 9.8.1999 on the above lines. Order dated 22.06.2006 (Annexure A-8) is hereby quashed and set aside so far it relates to the applicant and the respondents shall work out the ACP as stated above and after adjusting the amount paid to the applicant the balance shall be payable. Suitable orders be passed within a period of two months from the date of communication of this order and arrears paid within two months thereafter.

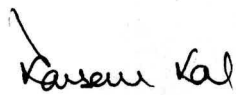
5. No costs."

5. Though records in this case have not been called for, in so far as the documents are concerned, all are the same in both the cases and identical counter has been filed. As such, in this case also, there is no question of the applicant having been granted first lower pay scale on regular basis and later promoted as Bridge Khalasi as contended by the respondents in their counter. The very first appointment in this case should, therefore, be held as Bridge khalasi and all that happened earlier was upward revision of pay scale and as in the other OA No. 740/05, this OA also is allowed. Respondents are directed to work out the period when the applicant completed 12 years of regular service (including 50% of temporary status) and based on the same, the ACP shall be afforded to the applicant. Order dated 11-08-2005/31-08-2005 (Annexure A-8) is hereby quashed and set aside. the respondents shall work out the ACP benefits by placing the applicant in the scale of pay of Rs 4,000 - 6,000 w.e.f. 9-8-1999 and afford the applicant the arrears of pay and allowances and also work out the pensionary benefits on the basis of the last pay drawn in the higher scale of Rs 4,000 - 6,000. The arrears arising out of pay and allowances as also pension, commutation, gratuity, leave encashment etc. should be worked out within a

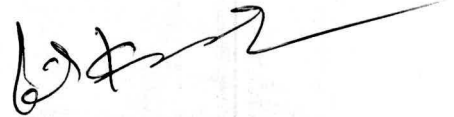
period of three months from the date of communication of this order. Pension shall also be accordingly released at the enhanced rate.

6. No costs.

(Dated, the 22nd November, 2007)



TARSEM LAL
ADMINISTRATIVE MEMBER



DR. K.B.S. RAJAN
JUDICIAL MEMBER