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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.


Original Application No. 197 of 2006
Cuttack, this the 17th day of February, 2009

Pravakar Pradhan Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be circulated to all the Benches of the CAT or not?


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 197 of 2006

Cuttack, this the / ~~7th~~ day of February, 2009

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)

Pravakar Pradhan, aged about 54 years, Son of Prahalad Pradhan, At/Po- Harirajpur, PS-Delanga, Dist-Puri at present working as Bridge Khalasi in constructon, East Coast Railway, At/Po/Dist-Cuttack.

.....Applicant

By Advocate : Mr. Niranjan Panda

- Versus -

1. Union of India represented through its General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Khurda.
2. Senior Personnel Officer (Con.), East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Chief Administrative Officer (Con.) East Coast Railway, Rail Vihar, Chandraekharpur, Bhubaneswar, Dist. Khurda.
4. FA & CAO (Con.) East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
6. Chief Engineer (Con.-II), East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
5. Deputy Chief Personnel Officer, At/Po E.C.Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.

....Respondents

By Advocate :Mr. S.K.Ojha.

O R D E R

Per- MR. C.R.MOHAPATRA, MEMBER (A):-

Applicant is a Bridge Khalasi posted in the Construction wing of the E.Co.Railway at Cuttack. In this OA seeks the following relief:

- “(a) To direct the Respondents to pay the revised arrears salary. Under ACP Scheme granting financial up-gradation as the same was paid to the applicant;
- (b) The Respondents may directed to continue the up-gradation financial Assistance to the applicant

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under the ACP Scheme as the decision of the Committee”

2. In the counter filed by the Respondents it has been stated that the Applicant being in a Group D post w.e.f. 01.04.1984, the eligibility service as per CPO/SE Railway/GRC's Estt.Srl.No.62/2004 is to be counted from 16.08.1982 taking into account 50% of service rendered from the date of attainment of Ty. Status and 100% from 01.04.1984. Thus, in this case the applicant has completed 12 years, eligibility service as on 16.8.1994 and in the meanwhile he having been regularized w.e.f. 1.4.1988 as Bridge Khalasi, he has been enjoying the higher scale of pay of Rs.800-1150/- in the 4th CPC scales and subsequently this has been revised to Rs.3050-4590/- in the 5th CPC scales. Further case of the Respondents is that applicant having already got one promotion on officiating basis during his service career, he was eligible for the financial up-gradation in the scale of pay of Rs.4000-6000/- w.e.f. 16.08.2006 on completion of 24 years of eligibility service. Therefore, the ACP benefit, which was granted erroneously w.e.f. 01.04.2000 was correctly cancelled vide SPO (Con)/BBS's Office Order No. 85/2005 dated 22.6.2005.

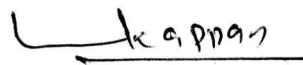
3. Heard. Perused the materials placed on record. We do not feel it necessary to record all those submissions made in the pleadings; as we find that the submissions made in the present case were also raised by the Respondents in similar matters filed in this Tribunal in OA No. 663 of 2005 (Sachi @ Sachi Lenka v UOI and Others). This Tribunal after taking into consideration various aspects of the matter vide order dated 22nd November, 2007 allowed the


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prayer of the Applicant therein. The order of this Tribunal dated 22nd November, 2007 was subsequently confirmed by the Hon'ble High Court in W.P (C) No.7427 of 2008 disposed of on 8.7.2008.

4. In view of the above, the OA filed by the present Applicant is allowed. The order dated 22.6.2006 is hereby quashed. The Applicant is entitled to the ACP benefit which was paid to him but subsequently cancelled by order dated 22.6.2006. The Applicant is entitled to get their pay, in the scale of pay of Rs.4000-6000/- retrospectively. He is entitled to refund of the recovered amount, if any, made pursuant to the impugned orders referred to above forthwith.

5. The above directions shall be complied with by the Respondents ^{at the earliest} ~~forthwith~~ at any rate within a period of 60 days from the date of receipt of copy of this order; failing which the Applicant would be entitled to interest @ Rs.12% per annum till the actual payment is made. There shall be no order as to costs.


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


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