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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 225 OF 2008
CUTTACK, THIS THE 19th DAY OF March, 2009

S. Lakshmi Pati Applicant

Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

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


(K. THANKAPPAN)
MEMBER (JUDL.)


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

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ORIGINAL APPLICATION NO. 225 OF 2008
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CORAM :

HON'BLE MR. JUSTICE K. THANKAPPAN, MEMBER(J)
HON'BLE MR. C.R. MOHAPATRA, MEMBER(A)

.....
S. Lakashmipati, aged about 59 years, Son of S.V.Narsinghlu, Technician GrI, at present working as J.E.-I, East Coast Railway, Bolangir, at/P.O./Dist-Bolangir.

.....Applicant

Advocate(s) for the Applicant- M/s Prafulla Ku. Mohapatra,
S.K.Nath

VERSUS

1. Union of India represented through its General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. Chief Personnel Officer, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Divisional Personnel Officer, East Coast Railway, Sambalpur, AT/PO/Dist.- Sambalpur.
4. Divisional Electrical Engineer (General), East Coast Railway, Sambalpur, At/PO/Dist-Sambalpur.
5. Senior Section Engineer (Elect.), East Coast Railway, Sambalpur, At/PO/Dist- Sambalpur.

..... Respondents

Advocates for the Respondents – Mr. M.K.Das.

.....

ORDER

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

The applicant, who is holding the substantive post of Technician Gr-I with the scale of pay of Rs. 4500-7000/- was asked to discharge the responsibilities of Jr. Engineer-I w.e.f. 05.07.2004, consequent to the transfer of permanent incumbent. He has been holding this post of J.E.-I, which is of the higher scale of pay of Rs. 5500-9000/-. Since he has not been paid the salary in this higher scale, he has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

"to pay the salary attached to the post of Jr. Engineer-I in the scale of pay of Rs. 5500-9000/- from 5.7.2004 to till date."

2. The main ground urged by the applicant is that inspite of his discharging higher responsibilities of J.E-I, he has not been allowed to draw pay and allowance in the scale of higher post and he claims the higher scale on the principle of 'equal pay for equal work'. Apart from not being paid higher scale, his case has also not been considered for promotion to the higher post. The applicant in the meantime has retired on superannuation in November, 2008.

3. The Respondents have filed detailed counter stating the following facts:

"That the applicant Sri S.Lakshmi pati is working as Technician-I in scale Rs. 4500-7000/-

(RPS) at Bolangir Station. While working as such Sri J.K.Beck, Junior Engineer-I (Elect.), Bolangir has been transferred in his existing capacity and scale of pay and posted under SSE (Elect)/Sambalpur on administrative interest vide this officer order No. 28/2004 dtd. 16.6.2007. In order to implement the order, Senior Section Engineer (Elect)/Sambalpur instructed to Sri J.K.Beck, JE-I (Elec t/BLGR vide his letter No. E/3/SBP/2004 to handover the charges to Sri S.Laskhmipati, Tech-I (PL)/Bolangir and spare yourself to join at Sambalpur immediately. Accordingly, Sri J.K.Beck, JE-I(Elect)/ Bolangir handed over the charges to Sri Laskhmipati, Tech-I(PL)/Bolangir on 05.07.2004."

4. The Respondents pointed out that the applicant was only handed over the charge of all section maintenance, Store (M&P, T&P and CS) office works etc from Sri J.K.Beck, JE(EL)/BLGR, but nowhere it was mentioned that the applicant has worked as JE-I (Elec). It is the further contention of the Respondents that the applicant's channel of promotion to the next higher scale of Rs. 5000-8000/- is made on the basis of seniority-cum-suitability as per extant procedure to the post of JE-II. His next level of promotion is from JE-II to JE-I. While conducting the selection of Junior Engineer Gr.II (Elect) in scale Rs. 5000-8000/- (RPS) against Deptt. Promotion Quota in the year 2005 the applicant was not coming within the zone of consideration as per seniority, hence his case was not considered. Therefore mere taking over of the charge would not entitle him to get promotion to the post of JE-II/JE-I without passing through the selection procedures as mentioned above. Thus his claim for

promotion to the post of JE-II(Elect) in scale Rs. 5000-8000/- (RPS) does not arise. It has also been pointed out by the Respondents that the applicant's position is at Sl.No.9 in the category of Technician Gr-I in the scale s. 4500-7000/- and all the senior staffs as stated by the applicant have not been promoted to the JE-II (Elect). The applicant is not the senior-most candidate in the feeder cadre of JE-II (Elect). The Respondents have, however, by filing Annexure-R/1 have brought out the Railway Board's guidelines in such cases, which is extracted below:

“ The matter has been examined by the Board in consultation with the Finance Directorate of the Ministry of Railways. Since the conditions stipulated for payment of special pay/officiating pay/honorarium are not fulfilled in the situation mentioned above, it has not been found feasible to agree to the demand of the staff side. However, it has been decided by the Board that when staff in the lower grade are made to shoulder responsibility of higher grade post, they may be compensated monetarily by grant of suitable awards, as deemed fit, by the General Managers under their powers depending upon the circumstances and the extent of work involved.”

5. Heard the Ld. Counsel for either side and perused the materials available on record. The fact that the applicant has been working in a higher post in holding higher responsibility has not been denied either in the pleadings or during the hearing by the Respondents. Though, it is a fact that the applicant is not due to be promoted to the grade of JE-I but the fact remains that consequent

upon the transfer of the permanent Junior Engineer, he was asked to take over the charge and discharge the responsibilities which are in addition to his own duties and he has shouldered the responsibilities for quite a long period. Therefore he is entitled to get extra remuneration for the additional responsibilities shouldered by him, which also is admissible under the Railway Board Establishment RBE No. 189/06 (cited above).

6. In the above view of the matter, the Respondent No.1 is directed to consider awarding the applicant with some extra remuneration/monetary compensation in terms of the Railway Board's Establishment No. 189/06 and pass necessary orders in this regard. This should be done within a period of 60 days from the date of receipt of a copy of this order.

7. The O.A. is accordingly disposed of. There shall be no order as to costs.

K.T. KAPPAN
(K.THANKAPPAN)
MEMBER (JUDL.)

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

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