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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK


O.A.No. 307 of 2008
Cuttack this the 21st day of February, 2011

Kulamani Sahoo Applicant
-Versus-
Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? X
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not? X


(A.K.PATNAIK)
Member(J)


(C. R. MOHAPATRA)
Member (Admn.)

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CORAM:

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

AND

THE HON'BLE MR. A.K. PATNAIK, MEMBER (J)

Kulamani Sahoo, aged about 65 years, S/o. Late Babaji Sahoo, retired Keyman, Office of Deputy Chief Engineer/Con/ECorly/CTC, permanent resident of Village-Batto, PO-Barithengarh, Via-Dhanamandal, PS-Badachana, Dist. Cuttack.
.....Applicant

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

-Versus-

1. Union of India represented through the General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. Chief Administrative Officer (Con.), East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Chief Personnel Officer/Construction/Coordination, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. FA & CAO (Con.), East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
5. Deputy Chief Engineer (Con.), E.C. Railway Station Bazar, Cuttack.

....Respondents

By legal practitioner: Mr. T. Rath, Counsel

ORDER

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

Applicant while working as a Keyman under the Deputy Chief Engineer/Con/ECorly/CTC retired from service w.e.f. 30.6.2006. According to him, he was regularized on 01-04-1973. On 01-01-1987 he was promoted to the post of Keyman. On 01-10-1999, Railway Board issued instruction for grant of two financial up-gradations, to an employee, after completion of 12/24 years of service, if he or she has got

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no promotion. It is the case of the applicant that he was entitled to 2nd ACP w.e.f. 01-10-1999 but despite representations and his retirement, he was not paid the benefit. Hence by filing the present OA he prayed for direction to the Respondents to grant him the scale of pay of Rs.3050-4590/- w.e.f. 01-10-1999 under the ACP scheme and accordingly to direct the Respondents to pay him the arrear differential amount within a specified period with 12% interest including revision of pension and pensionary benefits already paid to him.

2. Respondents in their counter have stated that the applicant was initially engaged as Khalsi and subsequently regularized in Group D post w.e.f. 01-04-1973 in the scale of Rs.196-232/Rs.2550-3200/- and again after passing necessary trade test he was promoted to the post of Gangman and his service was regularized in Gangman in the scale of pay of Rs.2610-3540/- w.e.f. 01.04.1988. Thereafter he was promoted to the post of Keyman in the scale of pay of Rs.2750-4400/- w.e.f. 01-01-1987. According to the Respondents as the applicant has got two promotions during his service career, he was not entitled to the second financial up-gradation under ACP as claimed by him. Hence the prayer of the Respondents is to dismiss this OA.

3. Applicant in his rejoinder has pointed out that according to the stand of the Respondents in their counter he is entitled to the relief claimed by him in his OA as Respondents themselves admitted in their counter that the applicant received his pay in scale of Rs.196-232/- w.e.f.

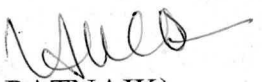
1.03.1973 and Rs.800-850/- till the date of his retirement. The order of Regularization in the post of Gangman w.e.f. 01-04-1988 merged with the higher post of Keyman w.e.f. 01-01-1987. As such the applicant got only one promotion from Khalsi to Keyman w.e.f. 01-01-1987 during 26 years of regular service as on 01.10.1999 and as such by no stretch of imagination the prayer of the applicant made in this OA can be rejected.


4. Heard the rival submission of the parties and perused the materials placed on record. No document, despite ample/adequate opportunity, has been produced by the Respondents showing grant of two promotions to the applicant during his entire service career. The ACP scheme clearly provides grant of two financial up-gradations during 12/24 of service. The assertion in the counter has not been fortified by any corroborative evidence that in fact the applicant has been allowed two promotions. Regularization in Group D post cannot be termed as promotion so as to deny him the benefit under ACP. Several cases of this nature have already been disposed of by this Tribunal taking the view in favour of the applicants and as we understand the said orders have subsequently been confirmed by the Hon'ble High Court of Orissa. In the aforesaid circumstances, we hold that the applicant is entitled to the second financial up-gradation under ACP w.e.f. 01-10-1999 which was unjustly disallowed to him by the Respondents. Hence in view of the above direction, the Respondents now shall have to, upon granting the applicant second financial up-gradation under ACP Applicant w.e.f. 01-

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10-1999 revise the scale of pay, pension and pensionary dues of the applicant and pay him the arrear differential dues forthwith at any rate within a period of 120 days from the date of receipt of copy of this order failing which the Applicant shall be entitled to 8% interest on the arrear differential dues. We also make it clear that the amount which will be paid to the Applicant by way of interest for the delayed payment shall be recovered from the officers responsible for the delay.

5. In the result, for the discussions and directions made above, this OA stands allowed.


(A.K.PATNAIK)
Member (Judl.)


(C.R.MOHAPATRA)
Member (Admn.)