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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No. 323 of 2008
Cuttack, this the 17th day of January, 2011

Upasi Behera Applicant

-vs-

Union of India & Others Respondents

C O R A M:

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

A N D

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

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The Applicant is the widow of Late Lakhan, S/o.Sudam. The

husband of the Applicant was working in the Railway as Junior Sweeper.

While working as such he succumbed to death prematurely on 28.5.2004.

After the death of Late Lakhan, pension and pensionary benefits were sanctioned in favour of the Applicant. By submitting representation dated

16.12.2007, she claimed grant of the ACP benefit to her husband and

according sanction for the differential arrear dues and revision of pension

after fixation of the pay of her husband on implementation of the ACP

benefits. Alleging no action on the said representation she approached

this Tribunal in the present OA with prayer to direct the Respondents to

grant 1st and 2nd financial up-gradation under the ACP scheme w.e.f.

01.10.1999 and grant of consequential financial benefits i.e. differential

arrear salary, pension, DCRG and leave salary etc.

2. Respondents filed their counter objecting to the entitlement of the benefit to the husband of the applicant under the ACP Scheme as

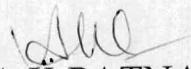
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claimed by the applicant in this OA. According to the Respondents, the applicant's husband entered to the service of the Railway as casual Gangman in scale of Rs.70-85/- w.e.f. 24.1.1967. The provision for granting financial up-gradation came into effect w.e.f. 01-X-1999 vide Estt.Srl.No.288/99. The husband of the applicant was not entitled to the benefit of 1st and 2nd financial up-gradation under the ACP scheme as he has already availed of one financial up-gradation on 1.8.1972 and subsequently promoted to the post of Senior Gangman w.e.f. 1.12.1985. While he was working in the post of Sr. Gangman he requested to change over and work as Jr.Sweeper in the scale of pay of Rs.750-940/-. The said prayer of the husband of the applicant was accepted and he was posted as Jr. Sweeper w.e.f. 1.5.1989. Hence Respondents prayed for dismissal of this OA.

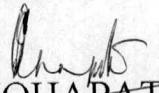
3. Applicant controverted the stand taken by the Respondents in their counter and has reiterated that her husband had never got any financial up-gradation nor regular promotion during his service career and as such he is eligible and entitled to get two financial up-gradation under the ACP scheme and resultant benefits.

4. Heard Learned Counsel for both sides and perused the materials placed on record including the Service Book of the husband of the applicant produced by Learned Counsel appearing for the Respondents pursuant to our direction. We do not feel inclined to go deep into the matter and record the arguments made by the parties as relying

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on the recordings; especially the recordings made at page 7 of the Service Book of the husband of the Applicant, it was fairly submitted by Mr.T.Rath, Learned Counsel for the Respondents that as the husband of the applicant had completed 24 years of service by the cut off date for grant of ACP i.e. w.e.f. 01.10.1999 and as such he was entitled to be considered for grant of ACP and if some time is allowed to the Respondents they will examine the matter with reference to the scheme for grant of ACP. In view of the above submission, this OA is disposed of with direction to the Respondent No.3 to consider the grant of 2nd financial up-gradation under the ACP w.e.f. 01.10.1999 to the husband of the applicant, as per Rules and grant the applicant consequential relief including arrears emoluments, if found otherwise entitled to, within a period of sixty days from the date of receipt of this order.


(A.K.PATNAIK)
MEMBER (JUDL)


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