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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 49 of 2008

Cuttack, this the ~~10th~~ day of March, 2011

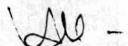
Padmanav Dash Applicant


-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

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


(A.K.PATNAIK)
Member(Judl)


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

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 49 of 2008

Cuttack, this the 10th day of February, 2011

CORAM:

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

A N D

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

Shri Padmanav Dash, Son of Late Upendra Nath Dash, aged about 64 years, Retired Senior Passenger Driver/Safety Counsellor, Office of the East Coast Railway, Khurda, At/Po:Jatni, Dist. Khurda, at present C/o.Trinath Mohan Satpathy, At-Chanaghar, PO. Kasumati, PS. Jatni, Dist. Khurda.

.....Applicant

By legal practitioner: M/s.J.Sengupta, D.K.Panda, G.Sinha,
A.Mishra, S.Mishra, Counsel.

-Versus-

1. Union of India represented through its General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
 2. Divisional Railway Manager.
 3. Senior Divisional Manager
 4. Senior Divisional Finance Manager.
 5. Senior Divisional Mechanical Engineer
- Serial Nos. 2 to 4 are all of East Coast Railway, Khurda Road, At/Po/Ps.Jatni, Dist. Khurda.

....Respondents

By legal practitioner: Mr.T.Rath, Counsel

ORDER

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

Applicant, while working as Sr. Passenger Driver/Safety Counsellor, Office of the East Coast Railway, Khurda at Jatni, on reaching the age of superannuation, retired from service on 29.2.2004. Earlier, the applicant was imposed with the major punishment of removal from service at the end of the disciplinary proceedings. He challenged the said order of removal before this Tribunal in OA No. 4 of 1987. In order



dated 29th March, 1989, this Tribunal quashed the order of punishment of removal with direction for his reinstatement in service within one month. In so far as payment of the back wages is concerned, liberty was granted to the applicant to make representation claiming his back wages and the Respondents were directed to consider the representation of the applicant regarding his entitlement/payment of back wages. Pursuant to the aforesaid direction, the Applicant was reinstated in service. By submitting representation he prayed for grant of the back wages from the date of removal till his reinstatement. Respondents considered the representation of the applicant but ordered the intervening period from 4.4.1983 to 09.11.1989 to be treated as dies non. The decision of the authority was communicated to the Applicant vide Annexure-A/4 dated 14.3.1991. Being aggrieved by the said order under Annexure-A/4 dated 14.3.1991, the applicant approached this Tribunal in the present Original Application seeking to quash the said order under Annexure-A/4 dated 14.3.1991 and to direct the Respondents to pay him the emoluments for the intervening period i.e. from the date of removal till reinstatement (04-04-1983 to 09-11-1989).

2. Respondents filed their counter stoutly opposing the stand of the Applicant. No rejoinder has been filed by the Applicant.

3. It reveals from the counter that after the order of this Tribunal dated 29.03.1989 in OA No. 4 of 1987 and prior to filing this OA, the Applicant had come up to this Tribunal in OA No. 1085 of 2004

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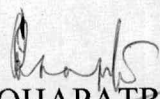
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with prayer to quash the order under Annexure-A/7 and to direct the Respondents to include the period from 20.2.1982 to 09.11.1989 to his service period and calculate his pensionary benefits accordingly. After considering the rival case of the parties, this Tribunal disposed of the said OA no. 1085 of 2004 on 16th February, 2009. Relevant portion of the order reads as under:

“9. It is the case of the applicant as narrated in the OA that since this Tribunal had directed to consider the representation for treating the intervening period for two purposes i.e. as duty for pensionary benefits and also for back wages, now as per the order passed by the Respondents as evidenced from Annexures-R/6, R/7 and R/8, it would reveal that the authorities have not considered the directions issued by this Tribunal inasmuch as they have not treated the said period as duty for all purposes. As we have already gone through the order, this Tribunal had not stated anything about the power of the authorities to treat the period from 1983 to 1989 either as duty for all purposes or the applicant is entitled to back wages or even the period in question to be treated as duty only for the purpose of pension. Keeping in view the directions issued by this Tribunal as well as the charge levelled against the applicant and on considering the fact that the applicant has already retired from service, we are of the view that the discretion exercised by the authorities to the effect that the intervening period would be available for pensionary benefits to applicant is wholly justified inasmuch as although the applicant was kept out of service without his fault, he had also not worked during that period. We are also of the view that in the absence of any specific direction to that effect issued by the Tribunal as per Annexure-A/1, at this stage, we would only hold that treatment of the intervening period only for the purpose of pensionary benefits as per Annexure-R/8 dated 6.6.1991 would meet the ends of justice in the instant case. With the above observation, we dispose of this OA and direct the Respondents to release the pensionary benefits and pension in favour of the applicant within a period of sixty(60) days from the date of receipt of this order.”

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4. Heard Learned Counsel for both sides and perused the materials placed on record.
5. After closure of this case, by filing copies of the orders through Memorandum dated 9.2.2011 it was brought to the notice of this Tribunal by Mr.Rath, Learned Counsel for the Respondents that in compliance of the aforesaid order of this Tribunal meanwhile the applicant has already been paid his unpaid differential amount of Rs.13,041/- and by treating the aforesaid period as duty the retirement dues have been revised and paid to the applicant.
6. Copy of this Memorandum with its enclosure has also been served on the Learned Counsel for the applicant, as it reveals from the endorsement, on 9.2.2011. But he has raised no objection on the same.
7. In view of the above, there remains nothing further to be adjudicated in this OA. Hence this OA stands disposed of as infructuous.


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


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