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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A. No.457 of 2010
Cuttack, this the 14th day of September, 2010

CORAM:
THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN (J)
AND
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

Shri Baidhara Khatua, aged about 61 years, son of Late Rangia Khatua, Village-Tarasa, PO. Marjitarapur, Via/Ps.Jenapur, Dist. Jajpur, Retd. Driller Grade III, Office of the Deputy Chief Engineer/Construction/East Coast Railway/Rail Vihar, Bhubaneswar. Applicant

By legal practitioner: M/s. N.R.Routray, S.Mishra, T.K.Choudhury, Counsel
-Versus-

1. Union of India represented through the General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. Senior Personnel Officer, Construction/Coordination, East Cost Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. The Deputy Chief Engineer/Construction/East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda. Respondents

By legal practitioner: Mr.S.K.Ojha, SC (Rly.)

O R D E R

MR. M.R.MOHANTY, VICE-CHAIRMAN (J):

In absence of the parties, on 25.08.2010, notices were directed to be issued (together with the copies of this OA) to the Respondents. However, on being mentioned by Mr.Routray Learned Counsel for the Applicant (made in presence of Mr. Ojha, Learned Standing Counsel for the Railway), this matter is taken up and, with consent of the parties, we proceed to hear Mr.N.R.Routray, Learned Counsel for the Applicant and Mr. Ojha, Learned Standing Counsel for the Railway (to whom a copy of this OA has already been supplied) and perused the materials placed on record.

2. Applicant claims that he was granted temporary status and then admitted to the in the pay scale of Rs.260-400/- and that, though he was continuing to work as a Technician Gr.III in the scale of Rs.950-1500/-, he was regularized retrospectively w.e.f. 01.04.1984 in the post of Technician Gr.III (as against 60% PCR post in the scale of pay of Rs.750-940/-) on 16.07.1992. It is the case of the Applicant that the Railway Board issued the

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ACP scheme (to deal with the problem of genuine stagnation and hardship faced by the employee due to lack of adequate promotional avenue) on 01.10.1999 to provide 1st and 2nd financial up-gradation for those who are working in a post without any regular promotion for periods ranging upto 12/24 years, and that the Applicant (who has retired from services, on 30.09.2009, without getting any promotion) submitted representations, on 11.05.2009 and on 16.02.2010, to get first financial up-gradation under the ACP scheme of the year 1999. He, virtually, prayed to extend him the benefits covered under the orders dated 16.12.2008, 23.11.2009 and 08.04.2010 passed by this Tribunal in OA Nos. 185/2007, 432/2008 and 175/2010 respectively. He has also pointed out that, for following the orders rendered in similar cases, delay should not stand on the way for dispensation of justice (as per the views expressed by the Hon'ble Apex Court of India rendered in the case of **Union of India and others v K.C. Sharma** [reported in 2008(2) SCC (L&S) 783] and in the case of **Maharaj Krishna Bhatt and another v State of Jammu and Kashmir** [reported in 1997 (7) SCC 721] and without any response from the Respondents (on his representations), the Applicant has approached this Tribunal with the present Original Application filed (on 11.08.2010) U/s. 19 of the A.T. Act, 1985; wherein he has prayed as under:

“To direct the Respondents to grant 1st financial up-gradation w.e.f. 1.10.1999 under ACP scheme and pay the differential arrear salary from 1.10.1999 to 31.8.2008 by refixing his pay in the scale of Rs.4000-6000/- and corresponding to Revision of Scale of Pay as per 6th Pay Commission with 12% interest.

And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice.

And for which act of your kindness the applicant as in duty bound shall ever pray.”

3. Since it is the positive case of the Applicant that his representations dated 11.05.2009 and 16.2.2010 are still pending un-disposed with the Respondents and since it is also the case of the Applicant that his

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grievances are now covered by views already expressed by this Tribunal, without any ~~waste~~ of time, we hereby dispose of this case by remitting this matter to the Respondents; who should consider the grievances of the Applicant (as raised in his representations) in the light of the decisions of this Tribunal and of the Hon'ble Apex Court (referred to in above paragraph) and grant him relief, as due and admissible under the Rules/Scheme, and pass a reasoned order, by end of December, 2010, under intimation to the Applicant.

4. Send copies of this order to the Applicant and Respondents by Regd. Post.

5. Free copies of this order be also supplied to the Learned Counsel appearing for parties.


(C.R. Mohapatra)
Member(Admn.)


(M.R. Mohanty)
Vice-Chairman(J)