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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Date of order: 13.09.2010

PRESENT:

THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN (J)

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

In the Matter of:

O.A. No.486/2010

Anama Panda ... Applicant

Versus

Union of India & Ors. ... Respondents

(For Full details, see the enclosed cause title)

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For Applicant: M/s.N.R.Routray, S.Mishra, T.K.Choudhury, Counsel

For Respondents: Mr.S.K.Ojha, SC.
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ORDER

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

Applicant is a retired Bridge Khalasi. While working as such, he retired from service of the Railway in April, 2010. His grievance in this OA is that on 1.1.1981 he acquired temporary status. On 16.7.1992 while he was working as Bridge Khalasi in the scale of Rs.950-1500/- his services were regularized retrospectively w.e.f. 1.4.1984 in the said post against 60% PCR post in the scale of Rs.750-940/-. On 11.6.1999 again the services of the applicant as Bridge Khalasi were regularized against 60% PCR sanctioned post retrospectively w.e.f. 01.04.1988. On 1.10.1999 Railway Board issued ACP scheme to deal with the problem of genuine stagnation and hardship caused to the employee due to lack of adequate promotional avenues. As per the ACP scheme those who are working in a stagnant post without any regular promotion for a period of 12/24 years are eligible for 1st/2nd financial up-gradation. Respondents conducted the screening committee on January, 2003 and found the applicant along with others eligible/suitable for grant of 1st financial up-gradation w.e.f. 1.4.2000 vide order under Annexure-A/3 dated

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08.10.2003. Subsequently by order under Annexure-A/4 dated 22.6.2005, Respondent No.2 cancelled the order dated 8.10.2003 granting the benefit of first financial up gradation under ACP on the ground that the applicant has not completed 24 years of regular service from the date of initial regularization. Other employees who faced such order of cancellation like the applicant approached this Tribunal in OA N. 660 of 2005 and others and this Tribunal vide order dated 22.06.2005 quashed the said order of cancellation. Respondents carried the matter in writ before the Hon'ble High Court of Orissa [WP (C) No.7429 of 2008] and the Hon'ble High Court of Orissa dismissed the said writ petition preferred by the Respondents. By making representation dated 11.5.2009, present applicant prayed for restoration of the ACP benefits earlier granted but subsequently cancelled as per the order of this Tribunal confirmed by the Hon'ble High Court of Orissa. In the circumstances, alleging inaction of the Respondents in not considering his representation for restoration of the ACP benefit by extending the decision rendered by this Tribunal and confirmed by the Hon'ble High Court, the Applicant has approached this Tribunal in the present OA seeking to quash the order under Annexure-A/4 dated 22.6.2006 canceling the ACP benefit granted to him with further direction for restoration of the ACP benefit and payment of differential arrear salary pursuant to the order passed by this Tribunal.

2. Heard Learned Counsel for the Applicant and Mr.S.K.Ojha, Learned Standing Counsel appearing for the Railway and perused the materials placed on record. On examination of the facts of the present case vis-à-vis the case earlier disposed of by this Tribunal and confirmed by the Hon'ble High Court, prima facie we find the Applicant is entitled to the relief prayed for in this OA. It is trite law [**Maharaj Krishan Bhatt and Another Vs State of Jammu and Kashmir and others** (2008) 2 SCC (L&S) 783]

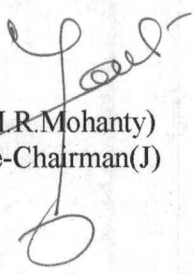
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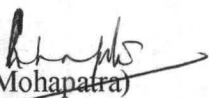
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that once a judgment had attained finality, it could not be termed as wrong, and its benefit ought to have been extended to other similarly situated cases. In view of the facts and law stated above, the Respondent No.2 to whom the Applicant submitted his representation vide Annexure-A/7 & A/8 which are stated to be still pending with him is hereby directed to consider the pending representation of the applicant in the light of the order of this Tribunal dated 22nd November, 2007 in OA No. 660 of 2005 (Rathi Sahoo v Union of India and others) and confirmed by the Hon'ble High Court in order dated 8.7.2008 in WP (C) No. 7429 of 2008 and communicate his decision along with reasons to the Applicant within a period of 120 days from the date of receipt of copy of this order.

3. With the aforesaid observation and direction this OA stands disposed of at this admission stage. In view of the above MA No. 565 of 2010 stands disposed of. No costs.

Send copies of this order along with OA to the Respondent No.2 and free copies of this order be given to Learned Counsel for both sides.


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


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