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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.542 OF 2010
CUTTACK THIS IS THE 22nd DAY OF SEPT., 2010

A. Behera..... Applicant
Vs.
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?


(C. R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(M.R. MOHANTY)
VICE-CHAIRMAN

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CORAM:

HON'BLE MR. M.R. MOHANTY, VICE-CHAIRMAN
HON'BLE MR. C.R. MOHAPATRA, ADMN. MEMBER

Sri A. Behera, aged about 55 years, W/o- Late Hadibandhu@
Hadibandhu Behera, Ex-Bridge Khalsi/ O/O-Asst.
Engineer(XEN)/Construction/Tender/East Coast Railway, Rail
Vihar, Chandrasekharapur, Bhubaneswar, Permanent resident of Vill.
Nimidha, P.O-Badalo, Via-Balmi, P.S. Motonga, Dist-Dhenkanal.

..... Applicant

By the Advocate(s) M/s-N.R. Routray,
S. Mishra,
T.K. Choudhury

Vs.

1. Union of India, represented through the General Manager, East Coast Railway, Samanata Vihar, Chandrasekharapur, Bhubaneswar, Dist-Khurda.
2. Senior Personnel Officer, Construction/Coordination, East Coast Railway, Rail Vihar, Chandrasekharapur, Bhubaneswar, Dist-Khurda.
3. Asst. Engineer(XEN)/ Con./Tender/ East Coast Railway, Rail Vihar, Chandrasekharapur, Bhubaneswar, Dist-Khurda.

..... Respondents

By the Advocate(s).....Mr. S.K. Ojha



ORDER
(Oral)

O.A. No.542/2010
22.09.2010

HON'BLE MR. M.R. MOHANTY, VICE-CHAIRMAN

Heard Mr. N.R. Routray, Ld. Counsel appearing for the Applicant and Mr. S.K. Ojha, Ld. Standing Counsel for the Railways (to whom a copy of this O.A. has already been supplied) and perused the materials placed on record.

2. Hadibandhu@ Hadibandhu Behera, while serving in the Railways, was granted temporary status w.e.f. 01.01.1981. While continuing as Bridge Khalasi in the Pay Scale of Rs.800-1150/- his services were further regularized (retrospectively w.e.f. 01.04.1984) on 16.07.1992 his regularization was given retrospectively w.e.f. 01.04.1988 in the scale of Rs.3050- 4590/- vide order dated 11.06.1999 (Annexure-A/1), as against 60% PCR sanction post. With Effect From 01.10.1999 the Railway Board issued the ACP Scheme to deal with problem of genuine stagnation and hardship faced by the employee due to lack of adequate promotional avenues. As per the said ACP Scheme, those who are working in a stagnated post without any regular promotion, become eligible to get 1st /2nd financial up-gradation after a period of 12/24 years of services (without promotion) retrospectively. Without granting the said ACP benefits, he was allowed to retire from service on attaining the age of superannuation on and from 31.12.2007.



3. Certain Ex-PCR staff were allowed to get ACP benefits but that was turned down and in the said premises they approached this Tribunal in O.A. No.844/05 and 663/05; which was allowed on 22.11.07 quashing the rejection order dated 22.06.05. The said order dated 22.11.07 was the subject matter of challenge before the Hon'ble High Court of Orissa in W.P. (C) No.7429/08. The said Writ Application of the Respondents Department was dismissed on 08.07.08 confirming the orders of this Tribunal rendered in O.A. No.844/05 and 663/05; on 22.11.07.

4. In the aforesaid premises Hadibandhu Behera represented to the authorities to grant him ACP benefit by extending the benefits of order on 22.11.07 of this Tribunal (Supra) but, before getting any relief, he expired on 29.11.09 leaving behind his widow, three sons and two daughters.

5. Certain other Bridge Khalasi (as that of Hadibandhu Behera) approached this Tribunal with O.A. No.639/09 to get the financial upgradation under the ACP Scheme and the said case was allowed on 15.01.2010 and the Respondents on 19.03.2010 granted 1st financial upgradation to the Applicants in the aforesaid O.A. No.639/09 w.e.f. 01.10.99.

6. In the aforesaid premises the (applicant) widow of Hadibandhu Behera represented to the authorities on 08.02.10 to get financial upgradation in favour of her deceased husband (Hadibandhu



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Behera) w.e.f. 01.10.99 and to get consequential family benefits like arrear differential salaries and revised rate of pension and family pension.

7. Without any favourable response from the Respondents the Applicant (the widow of Hadibandhu Behera) has approached this Tribunal with the present O.A. filed on 20.09.10 under Section 19 of the Administrative Tribunal's Act, 1985. Wherein he has prayed as under:-

“ To direct the Respondents to grant 1st financial up-gradation under the ACP Scheme w.e.f. 01.10.1999 by extending the benefit order dated 22.11.2007 passed in O.A. No.844/2005 and 15.01.2010 in O.A. no.639/09 to the applicant and pay the consequential benefits i.e, differential salary, leave salary, gratuity, commuted value of pension and pension after re-fixing pay in the scale of Rs.4,000-6,000/-.

And pay any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice;”

8. By way of relying on the judgement of the Hon'ble Apex Court in case of Union of India & Others Vrs. K.C. Shama & Others reported in (1997) SCC Vo.7 Page-721 and in the case of Maharaj Krishna Bhatt and Others Vrs. State of Jammu & Kashmir and others reported in (2008) 2 SCC (L&S) 783, The Applicant has prayed to grant her the benefits of the judicial pronouncements notwithstanding the delay in approaching this Tribunal.

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9. Since it is the positive case of the Applicant that her representation is still pending un-disposed of with the Respondents, without any waste of time, we dispose of this case by remitting this matter to the Respondents, who should consider the grievances of the Applicant (pertaining to grant of financial upgradation in favour of her husband and for release of differential arrear salaries of her husband and for revision of pension and release of life time arrear and differential pension at a higher rate) and do the needful/ and pass a reasoned order as due and admissible under the Rules/Scheme within a period of 90 days from the date of receipt of copies of this order, under intimation to the Applicant.

10. Send copies of this order to the Respondents (together with the copies of this O.A) by Registered Post at the cost of the Applicant. Mr. Routray, Ld. Counsel appearing for the Applicant undertakes to deposit the required postages in course of the day.

11. Free copies of this order be also send to the applicant and the Ld. Counsel appearing for the parties.


(C. R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(M.R. MOHANTY)
VICE-CHAIRMAN