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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.881 of 2010
Cuttack this the 19th day of February, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)

Lalita Kumari Sahoo,
Aged about 61,
Widow of Late Mayadhar Sahoo,
Retd. Sub Divisional Engineer (Civil),
Office of the Superintending Engineer (Civil)
BSNL, Bhubaneswar
at present residing at Gandarpur,
Nuasahi,
Cuttack-3,
Town and Dist. Cuttack.

.... Applicant

(By Advocates: M/s.A.K.Panda,A.A.Lenka)

-VERSUS-

UNION OF INDIA represented through –

1. Secretary,
Department of Telecommunication,
Sanchar Bhavan,
20-A,
Ashoka Road,
New Delhi-110 001.
2. Chairman Cum Managing Director,
Bharat Sanchar Nigam Ltd.,
B-148 States Man House,
Barakhamba Road,
New Delhi-110 001.
3. The Chief General Manager,
Bharat Snachar Nigam Ltd.,
PMG Building,
Bhubaneswar,
Dist.Khurda.



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4. The Controller of Communication Accounts,
Department of Telecom,
4th floor,
PMG Building,
Bhubaneswar,
Dist. Khurda.

.....Respondents

(By Advocate: Mr.Jugal Kishore Panda, For Res.No.3
Mr.U.B.Mohapatra,Res.Nos.1,2 and 4)

O R D E R**(Oral)****MR.A.K.PATNAIK, MEMBER (I):**

Applicant is the wife of Mayadhar Sahoo who retired while working as Sub Divisional Engineer (Civil) in the Office of the Superintending Engineer (Civil), BSNL, Bhubaneswar.


2. In fact, the Applicant in this OA challenges the withdrawal of the second ACP sanctioned/granted in favour of her husband. The stand of the Respondents is that the husband of the applicant initially joined as Draftsman and subsequently, during his service span he was promoted to Building Overseer (JE) and AE (C). As per the DOP & T order dated 9.8.1999 an employee was entitled to two financial up gradation i.e. after completion of 12/24 years of regular service in case of stagnation. Since the husband of the applicant had already got two promotions he was not entitled the second financial up gradation under ACP but the same was inadvertently granted to him and the mistake having been noticed the same was subsequently withdrawn. In support of the above stand, copy of the order of promotion of the husband of the


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applicant from higher grade Draftsman to Building Overseer dated 16th August, 1973 has been filed at Annexure-R/2 to the counter by the Respondents. During hearing Mr. A.A.Panda, Learned Counsel for the Applicant by referring to the initial order of appointment dated 11.6.1969 has in fact questioned the order of promotion dated 16th August, 1973. According to him the initial appointment of the husband of the applicant as Draftsman (Higher Grade) being in a temporary post wherefrom he could not have been promoted to the post of Building Overseer. The order dated 16th August, 1973 can at best be treated as absorption. This was strongly objected to by Mr. U.B.Mohapatra, Learned Senior CGSC appearing for the Respondents 1 to 4 and Mr.J.K.Panda, Learned Counsel appearing for the BSNO (Respondent Nos.2 & 3). According to them the wife of the husband is estopped under law to say so at this belated stage.

3. Having considered the rival submission of the parties, we have perused the materials placed on record. On the face of the order of promotion dated 16th August, 1973 the withdrawal of the second financial up gradation erroneously granted to the husband of the applicant cannot be faulted with as it is trite law that the authority has every right to withdraw the benefit erroneously granted to an employee.

In view of the discussions made above, we find no merit in this OA. This OA is accordingly dismissed by leaving the parties to bear their own costs.


(R.C.MISRA)
Member (Admn.)


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