

7
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.119 of 2011

Cuttack, this the 14th day of November, 2012

CORAM

THE HON'BLE DR.R.C.PANDA, MEMBER (ADMN.)
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

.....

Kunjaban Behera,
Aged about 46 years,
S/o. Upendra Behera
Working as Senior SO (A),
O/O the FA & CAO/Con,Qr.No.C-59/F/Rail Vihar,
Chandrasekharapur,
Bhubaneswar.

.....Applicant

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

-Versus-

Union of India represented through –

1. The Secretary,
Railway Board,
At-Rail Bhawan,
New Delhi-110 001.
2. Director,
Pay Commission V,
Railway Board,
At-Rail Bhawan,
New Delhi-110 001.
3. General Manager,
East Coast Railway,
E.Co.R Sadan,
Chandrasekharapur,
Bhubaneswar,
Dist. Khurda.
4. Financial Advisor & Chief Accounts Officer,
East Coast Railway,
E.Co.R Sadan,
Chandrasekharapur,
Bhubaneswar,
Dist. Khurda.



9

- 2 -

5. Dy. Financial Advisor and Chief Accounts Officer (G),
East Coast Railway, E.Co.R Sadan,
Chandrasekharapur,
Bhubaneswar,
Dist. Khurda and Chairperson of MACP Committee.
6. Chief Personnel Officer, East Coast Railway,
E.Co.R Sadan,
Chandrasekharapur,
Bhubaneswar.

.....Respondents

Advocate(s) - Mr.M.K.Das

O R D E R (ORAL)

DR.R.C.PANDA, MEMBER (ADMN.):

In this Original Application, the prayer of the Applicant is to quash the orders dated 04.03.2010 (Annexure-A/6) and dated 18.10.2010 (Annexure-A/9) and to direct the Respondents to grant 3rd financial up-gradation under the MACP Scheme w.e.f. 01-09-2008 and consequential benefits like differential arrear salary and interest at the rate of 12% per annum.

2. Respondents have filed counter opposing the prayer of the Applicant and praying that this OA being devoid of any merit is liable to be dismissed.

3. This matter has been listed today on the basis of the Memo filed by the Applicant. We have heard Mr.N.R. Routray, Learned Counsel for the Applicant and Mr.M.K.Das, Learned Counsel appearing for the Respondent-Railway and perused the materials placed on record.

4. At the out set, our attention was drawn by the Learned Counsel for the Applicant to the order of this Tribunal dated 27th July, 2012 in OA No. 153 of 2011 (**Satis Gadi Vrs UOI and others**), and contended that there is no need to go deep into the matter as this OA needs to be disposed of in the light of the aforesaid case since facts/issues involved in both the cases are same/similar.



9


-3-

5. It is pertinent to take the extract of the relevant portion of the order dated 27th July, 2012 in OA No. 153 of 2011 which is as under:

“5. It is not in dispute that the applicant had initially entered the Railway service in the year 1987 as Jr. Stenographer carrying the scale of Rs.1200-2040/-. It is also not in dispute that he was allowed switching over/conversion to the post of Junior Accounts Assistant carrying the scale of Rs.1200-2040/- with effect from 11.6.1991. Thus, from the admitted fact there is no iota of doubt that the posts of Junior Stenographer as well as Junior Accounts Assistant carrying the pay scale of Rs.1200-2040/- at the relevant point of time when the applicant was converted to Junior Accounts Assistant cannot be construed as promotion inasmuch as there is no such rule laid down in the service jurisprudence promoting an incumbent to a post carrying the same scale of pay as that of the post held by him in the feeder grade. We are conscious that after introduction of 5th C.P.C. coming into force with effect from 1.1.1996, whereas the scale of pay of Junior Stenographer was Rs.4000-6000/- the scale of pay of Junior Accounts Assistant in the Railways was Rs. 4500-7000/- and in that event it may be logical to come out that Junior Accounts Assistant is a promotional grade for the post of Junior Stenographer because of the elevation. But in the instant case the peculiarity involved is that prior to coming into force the 5th CPC, i.e., 1.1.1996, applicant had already been allowed conversion to the post of Junior Accounts Assistant carrying the scale of Rs.1200-2040, which pay scale he was already in receipt in the grade of Junior Stenographer. Therefore, by no stretch of imagination, Junior Accounts Assistants could be construed as a promotional grade of Junior Stenographer in so far as the present applicant is concerned. In the circumstances, we cannot but hold that Para 211, Chapter-II of IREM, Vol.I is not applicable to the case of the applicant, especially when he has been converted from the post of Junior Stenographer to the post of Junior Accounts Assistant carrying the same scale of pay of Rs.1200-2040/-.


6. For the reasons discussed above, we would direct the Respondents to take into account the period of the qualifying service rendered by the applicant in the grade of Junior Stenographer together with the qualifying service as Junior Accounts Assistant for the purpose of 3rd MACP and accordingly, grant him the benefits thereon with effect from the date the same is due and admissible.”

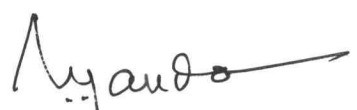
6. In the instant case, record reveals that the applicant was initially appointed as Junior Stenographer in the pay scale of Rs.1200-2040/- vide order dated 03.10.1987. On the basis of the option exercised



by him he was switched over to the post of Junior Accounts Assistant (in the same pay scale) vide order dated 06.01.1992. After completion of three years he was promoted to the post of Accounts Assistant in the pay scale of Rs.1400-2600/- vide order dated 6.6.1994 and thereafter he was promoted to the post Section Officer vide order dated 26.09.1996. Subsequently, on completion of further three years in the said post he was promoted to officiate as Sr.SO vide order dated 07.03.2006. Hence, for the discussions made in paragraph 5 of the order dated 27th July, 2012 in OA No. 153 of 2011, the impugned order under Annexure-A/6 and A/9 are quashed and the Respondents are hereby directed to grant 3rd financial up-gradation under the MACP Scheme by counting the period of service rendered by the applicant in the grade of Junior Stenographer together with the qualifying service as Junior Accounts Assistant and accordingly, grant him the benefits thereon with effect from the date the same is due and admissible within a period of four months from the date of receipt of copy of this order.

7. In the result, in terms of the above orders and directions this OA is disposed of. No costs.


(A.K. Patnaik)
Member (Judicial)


(Dr. R.C. Panda)
Member (Admn.)