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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NOS.471 & 472 OF 2009
Cuttack this the 14th day of March, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPTRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

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In O.A.No.471/2009

Rajkishore Behera & 28 Ors....Applicants

And

In O.A.No.472/2009

Gouri Shankar Kar & 22 Ors...Applicants

-VERSUS-

Union of India & Ors. Respondents

ORDER

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER:

1. Since in both the above mentioned Original Applications the point to be decided emerges from similar facts and circumstances, this common order is being passed.
2. Applicants in both the O.A. claiming to be similarly circumstanced as that of the applicants in Original Application No.329/2000 and W.P.(C) No.14649/2005 respectively, have prayed for the following relief:

"To direct the Respondents to extend the benefits of the circular dated 1.1.1998 to the applicants with effect from 26.6.1993, i.e., the date from which the Respondent No.4 was given the benefits of increase in the scale of pay as per the B.C.R. Scheme. Or in the alternative, pass any other order/orders, direction/directions as deemed fit and proper under the facts and circumstances of the case".

3. Respondent-Department have filed their counter opposing the prayer of the applicants, to which applicants have also filed rejoinder.
4. We have heard the learned counsels appearing for the respective parties and perused the materials on record.

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5. Shorn of unnecessary details, it would suffice to note that some of the aggrieved applicants had moved this Tribunal in O.A.No.329/2000 for grant of Time Bound One Promotion (in short TBOP) and Biennial Cadre Review (in short BCR) with effect from the date their junior was so granted. This Tribunal vide order dated 11.1.2005 dismissed the said Original Application. Being aggrieved by the order of this Tribunal, the applicants therein moved the Hon'ble High Court of Orissa in W.P.(C) No.14649/2005. The Hon'ble High Court vide judgment dated 11.7.2008 held as under:

“In view of the decision of the Apex Court in the aforesaid case, we have no hesitation to hold that the full Bench as well as the Division Bench proceeded in a wrong premise that the case was not covered by the decision of Leelamma Jacob & Others (supra). The fact and circumstances and law as settled in the case of Leelamma Jacob & Others (supra), is squarely applicable to the present case for which the writ application is allowed and the benefits under the aforesaid scheme be extended to the petitioners within a period of three months from the date of communication of this order.

The writ petition is allowed”.

6. In the counter filed, the Respondent-Department have not disputed the averments made by the applicants herein that they are similarly circumstanced with that of the applicants in O.A.No.329/2000 before this Tribunal and in the Writ Petition No.14649/2005 before the Hon'ble High Court. According to Respondents, the decision of the Hon'ble High Court in the aforesaid Writ Petition being the subject matter of judicial scrutiny by the Hon'ble Supreme Court, whatever order of the Hon'ble High Court has since been implemented is conditional one and subject to the outcome of the SLP and therefore, the present applicants cannot lay a claim that they are at par with the applicants in the aforesaid Original Application and Writ Petition before this Tribunal and the Hon'ble High Court of Orissa respectively, until and

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unless the SLP filed before the Hon'ble Supreme Court against the order of the Hon'ble High Court in WP© No.14649/2005 is decided. In this view of the matter, the Respondents, while expressing their inability to extend the benefit to the present applicants, have prayed that the O.A. being devoid of merit is liable to be dismissed.

7. We have considered the submissions made by the learned counsel for the parties. By filing rejoinder, the applicants have disclosed that the SLP (Civil) No.18019 of 2006 filed by the Respondents has already been dismissed by the Hon'ble Supreme Court vide order dated 13.9.2010. This fact has not been refuted by the Respondents, albeit they had been granted an opportunity for the purpose. In the circumstances, the status and recognition of the present applicants ^{being} at par with that of the applicants in O.A.No.329/2000 and in Writ Petition © No.14649/2005 are admitted. Besides the above, we also hold that the SLP filed by the Respondent-Department before the Hon'ble Supreme Court against the judgment of the Hon'ble High Court in W.P.(C) No.14649/2005 having been dismissed, there is no embargo as such to extend the benefit of the judgment of the Hon'ble High Court to the present applicants.

8. For the reasons discussed above, we direct the Respondent-Department to extend the benefit of BCR to the applicants with effect from the date Respondent No.4 was so granted and arrears accrued on that account be also drawn and disbursed. This exercise be completed within a period of 120 days from the date of receipt of this order.

Both the OAs are thus allowed leaving the parties to bear their respective costs.

sd/-
Member (D)

sd/-
Member (A)