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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 260/00996 OF 2015
Cuttack, this the 1st day of September, 2016

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

.....
Nirakar Mishra,
aged about 57 years,
S/o Late Surendranath Mishra,
presently working as Chief Controller,
Operating Dept. Divisional Control Office,
Sambalpur Division, East Coast Railway, Sambalpur- 768002.

.....Applicant

By the Advocate(s)-M/s. B. Dash, C. Mohanta, S.N. Mishra.

-Versus-

Union of India, represented through

1. The General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. The Secretary (Estt), Ministry of Railways, Railway Board, New Delhi.
3. Senior Divisional Personnel Officer, East Coast Railway, Sambalpur, At/PO/Dist- Sambalpur.
4. Dy. Director, Pay Commission-V, Ministry of Railways, Railway Board, New Delhi-110001.

.....Respondents

By the Advocate(s)- Mr. T.Rath

ORDER (ORAL)

A.K.PATNAIK, MEMBER (J):

Heard Mr. B.Dash, Ld. Counsel appearing for the applicant, and Mr. T.Rath, Ld. Standing Counsel appearing for the Respondent-Railways, on whom a copy of this O.A. has already been served and perused the materials placed on record.

2. The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

“ a. The original application may be allowed.

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b. The Hon'ble Tribunal may graciously be pleased to hold that the provisions of clause-5 and not clause-8 of the MACP Scheme has got application to deal with the case of the applicant for the purpose of extension of benefit of third financial up-gradation.

c. The respondents may be directed to extend the benefit of third financial upgradation to the applicant by placing him in the Grade Pay of Rs. 4800/-.

d. The respondents may be directed to give all consequential service benefits to the applicant, And;

Such other order.....”

3. Applicant, who was initially appointed as ASM having been held not to be eligible to receive the benefit of third financial up-gradation under the MACP scheme has approached this Tribunal in the present O.A. with the aforesaid reliefs. It has been stated that the prayer of the applicant is squarely covered by the judgment rendered by the Principal Bench of this Tribunal in O.A.No.2815/2011, which has been confirmed by the Hon'ble High Court of Delhi in W.P.(C) No. 1738/2014 dated 28.10.2014 (Annexure-A/3).

4. The case of the applicant in nutshell is that applicant entered into service as ASM on 01.08.1984 and joined the post of SM on 16.05.1990. On 11.11.2002, he was promoted to the post of Dy. Chief Controller. After the recommendation of 6th CPC, the pay of Rs. 5000-8000/- and Rs. 5500-9000/- were merged and, subsequently, the Govt. of India, Ministry of Personnel, Public Grievances and Pensions issued the MACP Scheme. In this regard, Railway Board issued a Circular RBE No. 101 of 2009 vide Annexure-A/1. Vide letter dated 05.06.2012, the Assistant Personnel Officer-II, Waltair, intimated that Grade Pay of ASM and Selection Controllers are to be guided as per para-8 of RBE No. 101/2009. However, after the orders passed by the

Waltair

Principal Bench of this Tribunal in O.A.No. 2815/2011, the applicant along with others made representation, to which they were replied vide letter dated 19.03.2015 that they are not eligible for MACP in terms of para-8 of RBE No. 101/2009. However, after disposal of W.P.No. 1738/2014 by the Hon'ble Delhi High Court, the applicant made representation dated 23.6.2015 to Chief Personnel Officer, E.Co.Railway, for grant of Financial Upgradation under MACP. We find from the record that Dy. Chief Personnel Officer (Recruitment) has written a letter dt. 23.09.2015 to the Deputy Director, Pay Commission-V (Respondent No.4) requesting to issue guidelines to deal with the demands of the Section Controllers or advise if they can implement the orders of the CAT, New Delhi in O.A.No. 2815/2011 in the East Coast Railway also. Thereafter, the applicant has been informed by the Sr. Personnel Officer (Staff) vide letter dated 07.10.2015 that on examining his representation, the competent authority as per letter dated 23.09.2015 has sought clarification from the Railway Board and further necessary action will be taken after receipt of the clarification from the Railway Board.

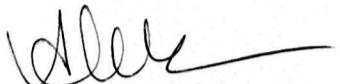
5. In view of the above, we do not think it proper to keep this matter pending. Accordingly, we dispose of this O.A. at this admission stage with direction to the Respondent No.4 to intimate the Deputy Chief Personnel Officer (Rectt.) or to the Chief Personnel Officer, as the case may be, regarding decision taken by the Railway Board in pursuance of letter dated 23.09.2015 within a period of one month from the date of receipt of copy of this order.

6. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.

W.M.

7. On the prayer made by Mr. B.Dash, Ld. Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent Nos. 2 and 4 by Speed Post for which he undertakes to file the postal requisites by 07.09.2016.


(R.C.MISRA)
(MEMBER (A))


(A.K.PATNAIK)
(MEMBER (J))

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