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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.257 of 2012

Cuttack this the 8<sup>th</sup> day of January, 2015

Kanaka Sahoo...Applicant

-VERSUS-

Union of India & Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *yes*
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? *yes*

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



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CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Kanaka Sahoo,  
aged about 57 years,  
W/o. late Akura @ Akura Sahoo,  
Ex-Works Supervisor,  
Office of Deputy Chief Engineer/Cn/D-II/East Coast Railway  
Rail Vihar, D-II,  
Chandrasekharpur  
Bhubaneswar  
Dist-Khurda  
Permanent resident of Village Washpadar,  
PO/Via-Kalupada Ghat  
PS-Tangi,  
Dist-Khurda

...Applicant

By the Advocate(s)-M/s.N.R.Routray

S.Mishra

T.K.Choudhury

S.K.Mohanty

-VERSUS-

Union of India represented through

1. The General manager  
East Coast Railway  
Rail Vihar, D/II,  
Chandrasekharpur,  
Bhubaneswar,  
Dist-Khurda
2. Financial Advisor and Chief Accounts Officer(Con.)  
East Coast Railway  
Rail Vihar,  
Chandrasekharpur  
Bhubaneswar
4. Senior Personnel officer/Con/Coordination  
East Coast Railway  
Rail Vihar  
Chandrasekharpur  
Bhubaneswar,

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Dist-Khurda

5. Deputy Chief Engineer/Con./D-II  
East Coast Railway  
Rail Vihar  
Chandrasekharapur  
Bhubaneswar  
Dist-Khurda

...Respondents

By the Advocate(s)-Mr.D.K.Behera

**ORDER**

**R.C.MISRA, MEMBER(A):**

The applicant in the present O.A. is the wife of late Akura Sahoo who was Works Supervisor in the office of Deputy Chief Engineer, Construction, D-II, East Coast Railways. She has approached the Tribunal with a prayer that the order of rejection dated 10/13.02.2012 passed by Respondents placed at Annexure-A/11 of the O.A. may be quashed, and the Respondents may be directed to pay the arrears salary for the period from 1.4.1973 to 27.7.1978 in respect of her late husband as per the orders placed at Annexure-A/2 of this O.A.

2. The facts of this case are that the applicant's husband was engaged as a Casual Khalasi in the Construction Division of the South Eastern Railway at Waltair on 26.02.1968 and continued to work till 24.09.1970. He worked in the KUR Division from 24.09.1970 to 23.03.1971, 24.4.1971 to 23.1.1976, and again from 24.1.1976 to 1.2.1978. Finally, he was retrenched from casual service on 01.02.1978 and received his retrenchment compensation. In consideration of his length of service, as well

*R. Misra*

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as his performance, he was brought over to the regular establishment with effect from 28.7.1978.

3. The Chief Engineer(Con.), S.E.Railway brought out a circular dated 26.4.1989 communicating the decision of the Railway authorities that casual labourers who had rendered more than 3 years of aggregate casual service as on 1.4.1973 would be regularized with effect from 1.4.1973. They would be brought to the regular scale of pay with effect from 1.4.1973 and the differential pay and allowances would be paid to them. The copy of the said circular is annexed at A/2. Since the applicant's husband fulfilled the criteria contained in the circular, he was regularized with effect from 1.4.1973 against 40% PCR posts vide office order dated 28/30.8.1991. As per circular dated 26.4.1989, absence or break in casual service on or after 1.4.1973 of those who fulfilled the conditions may be regularized by grant of leave/extraordinary leave.

4. According to claims made by the applicant in this O.A., the ante-dating of the regularization of her husband is evident from the orders of authorities passed on dated nil - 12.1994 and dated 6.10.1994 copies of which are placed at Annexures-A/3 and A/4. He while working as a Supervisor under Respondent No.4 expired on 17.7.2000 leaving behind the applicant, two daughters, and widow mother for which death certificate and legal heir certificate have also been enclosed to the O.A. as Annexures-A/5, A/6 and A/7.

*Ravi*

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5. The grievance of the applicant is that her husband is entitled to differential pay and allowance on account of the ante-dating of his date of regularization. One Basant who was similarly placed has already got his relief from the authorities, and the applicant has prayed in this O.A. for similar relief. It is further mentioned that the then Chief Project Manager, S.E. Railways, Visakhapatnam prepared the 'As drawn' particulars of the deceased husband of applicant for the period from 1.4.1973 to 1.2.1978 and sent the same to FA&CAO, Construction, Bhubaneswar for the purpose of drawal of arrears. In spite of all documents being in favour of applicant's husband, the case was rejected by the Respondents, giving rise to the current grievance.

6. The Respondents by filing counter reply in the case have claimed that as per service record, applicant's husband was appointed as temporary Khalasi on 28.7.1978. His service was confirmed as Khalasi w.e.f. 20.7.1979 in regular scale of pay. He was promoted as officiating Supervisor on ad hoc basis with effect from 01.03.1990 and expired on 17.7.2000, while in service. Basing on his regular service from 28.7.1978 till his death, all settlement payments have been made according to his last pay.

7. The Respondents further claim that on verification of service records of late Akura Sahoo, no mention was found regarding grant of ante-dated PCR status with effect from

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1.4.1973 in his favour in terms of CAO/C/VSKP's O/O. No.E/56/PCR/Spl. dated 28/30.8.1991. As per Annexure-A/3 vide Sr.Project Manager/HQ/BBS's letter dated SPM/BBS/HQ/ dated nil- 12-1994, neither CAO/C/SVKP's O/O.No. dated 28/30.8.1991 nor the entry of casual service is available in his service record.

8. The Respondents have averred that as per the orders of the Tribunal in O.A.No.607 of 2009, the Respondent No.4 passed a speaking order dated 10/13.02.2012 rejecting the case of the applicant, based on the service records. They have also submitted that the case of Basant cited in the O.A. who was regularized with effect from 1.4.1973 is dissimilar to the case of late Akura Sahoo.

9. Making the above submissions, the Respondents have prayed that the O.A. deserves no consideration and should be dismissed.

10. Having heard the learned counsels of both the sides, I have also perused the records. It is revealed that applicant had earlier approached this Tribunal by filing O.A.No.607 of 2009 which was disposed of on 21.7.2011. After examining the rival contentions of both sides, the Tribunal passed a direction to the Respondents to examine the matter in depth with reference to the order under Annexures-A/2 and A/3 and the order of this Tribunal in O.A.Nos.603 of 1998, 340 of 2000 and 153 of 2004 and in the event it is established that the husband of the



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applicant was employed as on cut-off date, then the applicant should be paid the arrear salary as has been paid to the applicants in the OAs referred to above.

11. In compliance of the direction in the above mentioned OAs, Respondent No. in an order dated 10/13.02.2012 rejected the case of the applicant by a reasoned order. The reason assigned for rejection was that on verification of the service sheet of the applicant's husband, no office order was found, reflecting the fact that he was granted PCR status with effect from 1.4.1973. This order is the subject matter of challenge in this O.A.

12. The learned counsel for the Respondents in course of his submissions could not deny the authenticity of the documents at A/3, A/4 and A/5 of this O.A. The learned counsel for the applicant in his rejoinder has submitted that Para-4 and Para-6 of the counter reply may be relied upon to allow the case of the applicant.

13. Annexure-A/2 of the O.A. is a letter dated 26.4.1989 issued by SPO(Con), S.E.R. which conveys the decision that the date of regularization of the casual labourers who fulfill the following conditions should be put back to 1.4.1973.

1. The concerned casual labourers should be on roll of the Construction Organization on 1.4.1973.
2. They rendered 3 years or more aggregate casual service on 1.4.1973.



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3. They were on turn for regularization with effect from 1.4.1973.

14. Contents of this letter further reveal that pay of those whose date of regularization would thus be put back to 1.4.1973 should be fixed in the appropriate scale of pay with effect from 1.4.1973 and difference of pay and allowances due and drawn, if any, would be paid. Absence of break in casual service on or after 1.4.1973 of those who fulfilled these conditions would be regularized by grant of leave or extraordinary leave. Annexure-A/3 is letter dated nil -12.1994 written by Sr. Project Manager/Hq., Bhubaneswar to Sr. Project Manager, Bilaspur conveying the names of Group 'D' staff absorbed in PCR scale with effect from 28.7.1978, but whose services were later regularized in PCR posts with effect from 1.4.1973. The names of the Group D staff mentioned are Akura Sahoo, applicant's husband and Basant. A request has been made in this letter to send the drawn pay particulars of this staff in order to facilitate drawal of arrears. Vide letter dated 6.10.1994(A/4) the Asst. Personnel Officer © has intimated the SPM/SE Rly./BBSR that 'As drawn' pay particulars of the applicant's husband and Basant may be collected from FA & CAO©, GRC. In these correspondences, it is clearly mentioned that services of late Akur Sahoo, applicant's husband and one Basant were regularized against PCR posts with effect from 1.4.1973. The Respondents in their counter reply have not



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challenged these correspondences. In the counter, it is submitted that averments in Para 4.1 to 4.3 and Para 4.5 and 4.6 of the O.A. do not require any comments and are matters of record. However, the case of the applicant was rejected by a reasoned order dated 10/13.02.2012, in which the only reason assigned is that in the service sheet of late Akura Sahoo, there is no mention that his services were regularized with effect from 1.4.1973. This appears to be wholly unfair and unjustified. The relevant documents produced in favour of the applicant's case are also part of record. Their authenticity has not been denied. It is surprising how the Respondents can deny the legal dues to the applicant, giving such a specious explanation. Are the Respondents not responsible for correct maintenance of service records? the Respondents cannot escape their responsibility by citing some technical reasons. The State is the model employer. The Respondents have themselves, issued order of regularization of PCR status with effect from 1.4.1973. They have extended benefits to similarly placed employee. The impugned order dated 10/13.02.2012 is also not a sincere compliance of earlier orders of the Tribunal in O.A.No.607 of 2009, and this order of the Respondents is liable to be quashed.

15. In view of the aforesaid discussions, it is quite clear that in the present case, the Respondents have failed to honour their own orders, and wrongfully deprived the applicant. The documents filed by the applicant establish that the PCR status



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of applicant's husband was in fact regularized with effect from 1.4.1973<sup>h</sup>. By taking a wholly untenable plea that in the service record such an order was not reflected, the Respondents have failed to deal with the case of the applicant fairly.

16. Therefore, the order dated 10/13.02.2012(A/11) issued by SPO(Con.)/Co-ordn./EBSR is set aside and the prayer of the applicant is allowed. Resultantly, therefore, the Respondents are directed to disburse the admissible differential arrears of salary and allowance to the applicant within ninety days from the date of receipt of this order.

The O.A. is allowed. No costs.



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

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