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and grant of ad interim order prayed for in this OA and perused the materials placed on record.

3. The order under Annexure-10 dated 19/22-11-2011

reads as under:

"With reference to the above cited subject, I am to inform you that Shri U.Panigrahi, formerly Zonal Director (EZ) of CBWE, Kolkata was granted monthly basic pension of Rs.15,195/- and Reduced Pension of Rs.15117/- with effect from 01-03-2011 on his retirement from service.

His pension was settled @ of 50% of last pay drawn immediately before his retirement including upgradation of pay scales implemented by the CBWE on the basis of **CAT Judgment, Kolkata Bench, Kolkata dated 27/09/2007 in OA No. 566 of 2007 corresponding to 6th CPC pay scale.**

The upgradation of pay scales of Education Officers cadre was implemented in the CBWE, Nagpur without any concurrence from the Ministry of Finance, Govt. of India, New Delhi and therefore, 'NO' funds have been provided by them for implementation of the above pay scale to the Eos cadre w.e.f. 01/01/1996 notionally and actual payments being made from 09/07/2007.

The AG Audit as well as Internal Audit Wing of the Ministry of Labour and Employment, Govt. of India, New Delhi have raised objection about the implementation of the upgradation of pay scale in respect of the cadre post of Education Officers without any approval from the Ministry of Finance/DOPT and instructed through their audit reports to take up the matter of the irregularities with the appropriate authority for necessary action. Accordingly, the matter has been placed before the 52nd Finance Sub Committee of the Board on Sept. 30th, 2011. Further, it has been also mentioned that as per rule 209 (6)(iv)(a) of GFR, all Grantee institutions or organization which receives more than 50% of their recurring expenditure in the form of Grant-in-Aid should ordinarily formulate terms and conditions of service of their employees which are by and large not higher than those application to similar categories of employees in the Central Govt. in exceptional cases relaxation may be made in consultation with Ministry of Finance, Deptt. Of Expenditure, Govt. of India.

However, the CBWE, Nagpur has challenged against the "implementation of upgradation of Pay Scale of the Eos" in the Hon'ble High Court, Kolkata bearing WPTC No. 85 of 2010 against the CAT Order/Judgments, Kolkata Bench, Kolkata.

In view of the implementation of Higher Pay Scale without any budget provision the CBWE is facing acute financial constraints under Non-Plan in regard to running the day to day activities of the CBWE. Resulting, this office is unable to release the payment of committed expenditure including other inevitable expenses of the Board.

The competent authority of the CBWE has been reviewed the entire case and it has been decided to pay the Revised Rate of Monthly Pension provisionally on the basis of pre-revised pay scale of the Post of the Officer holding

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immediately before the retirement corresponding to 6th CPC scale.

Accordingly, sanction is hereby accorded to pay the revised rate of pension to the Education Office cadre to Shri U. Panigrahi, EX. Zonal Director at the following monthly rates provisionally enforced with immediate effect till final out come decision of the Hon'ble High Court order is received on the subject by the CBWE, Nagpur in the matter.

1. Basic Pension :Rs.15,620/-p.m.

2. Reduced Pension :Rs.9,372/-P.M.(w.e.f.1.3.2011)

The other allowances like fixed Medical Allowance and Dearness Relief maybe paid as usual without any change of the earlier order.

These are administrative measures, made provisionally due to the aforesaid reasons setting aside the previous rates communicated earlier bearing this office letter mentioned under reference enforced with immediate effect till further orders."

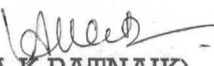
4. According to the Applicant's counsel this order has been issued by the Respondent No.3 without any valid reason or ground and without giving any opportunity to the applicant and, therefore, by making representations, under Annexure-11, dated 10-12-2011 to the Respondent No.1 and under Annexure-12 dated 6th January, 2012 he has sought intervention in the matter. By producing copies of the orders of the other Benches of the Tribunal, it was contended by the Applicant's counsel that the order under Annexure-10 is liable to be set aside. Be that as it may, perused the representations under Annexure-11 & 12 and find that the said representations are silent regarding the points now being canvassed by the Applicant's counsel in support of the relief claimed in this OA. This apart, it is seen that the order under Annexure-10 was issued due to the challenge of the order of the Kolkata Bench of the Tribunal before the Hon'ble High Court, Kolkata in WPTC No. 85 of 2010. On being pointed out, Learned Counsel for the Applicant fairly sought leave of this Tribunal to make a comprehensive representation to the Respondent No.2 with a further prayer to direct the Respondent No.2 to consider and dispose of the


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said representation within a stipulated period. In view of the above, without going to the merit of the matter, this OA is disposed of, at this admission stage, with liberty to the applicant to make a comprehensive representation to the Respondent No.2 who is hereby directed to consider the same and communicate the decision to the Applicant in a well reasoned order within a period of 60(sixty) days from the date of receipt of copy of this order.

5. Send copy of this order along with OA to the Respondent No.2 for compliance.


(A.K.PATNAIK)
Member (Judicial)


(C.R.MOHAPATRA)
Member (Admn.)