

7

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O.A.No.106 of 2012**

Cuttack this the 18<sup>th</sup> day of July, 2015

Fakira....Applicant

-VERSUS-

Union of India & Ors....Respondents

**FOR INSTRUCTIONS**

1. Whether it be referred to reporters or not? No
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not? No

  
**(S.K.PATTNAIK)**  
**MEMBER(J)**

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

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
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CORAM

HON'BLE SHRI R.C.MISRA, MEMBER(A)  
HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)

Fakira  
Aged about 64 years  
S/o-Ananda  
Retired Store Watchman  
O/O-IWI/Con./East Coast Railway  
Rail Vihar/Chandrasekharpur  
Bhubaneswar  
Permanent resident of Vill-Batijanga  
PO-Haridaspur, PS-Dharmasala  
Dist-Jajpur

....Applicant

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

-VERSUS-

Union of India represented through

1. The General Manager  
East Coast railway  
E.Co.R.Sadan  
Chandrasekharpur  
Bhubaneswar  
Dist-Khurda
2. Chief Administrative Officer(Con.),  
East Coast Railway,  
Rail Vihar,  
Chandrasekharpur  
Bhubaneswar  
Dist-Khurda
3. Senior Personnel Officer, Con./Coordination  
East Coast Railway,  
Rail Vihar,

9

Chandrasekharpur  
Bhubaneswar  
Dist-Khurda

4. Sr.Divisional Financial Manager,  
East Coast Railway,  
Rail Vihar  
Chandrasekharpur  
Bhubaneswar  
Dist-Khurda

5. F.A. & C.A.O./Con.,  
East Coast Railway  
Rail Vihar,  
Chandrasekharpur  
Bhubaneswar  
Dist-Khurda

....Respondents

By the Advocate(s)-Mr.S.K.Ojha

### **ORDER**

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

Applicant is a retired railway employee. In this Original Application, he has approached this Tribunal seeking for the following relief.

- i) To quash the order under Annexure-A/8 & A/9
- ii) And to direct the respondents to grant 1<sup>st</sup> and 2<sup>nd</sup> financial up-gradation under ACP Scheme in scale of Rs.2650-4000/- and Rs.3050-4590/- w.e.f. 01.10.1999 and pay the differential arrear salary, DCRG, commuted value of pension, leave salary and arrear pension with 12% interest.

2. Shorn of unnecessary details, it would suffice to note that initially applicant had been engaged in the railway as casual Store Watchman on daily rate basis in the year 1978.

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10

Subsequently, he was granted temporary status with effect from 1.1.1983 and while working as such, he was regularized against PCR Khalasi post with effect from 24.4.1988. This regularization was later on antedated to 1.4.1973.

3. In this Original Application, grievance of the applicant is directed against the impugned order dated 30.12.2011(A/9) in which his prayer for grant of 1<sup>st</sup> and 2<sup>nd</sup> financial up-gradation under ACP Scheme in scale of Rs.2650-4000/- and Rs.3050-4590/- w.e.f. 01.10.1999 has been turned down by the respondents.

4. The whole object based on which applicant's prayer has been turned down is that as per Est.Srl.No.288/99 while granting ACP benefits normal promotion norms prescribed should be fulfilled by the employee concerned. In the above background, applicant having been declared medically fit in C-1 category against the required eligibility condition of medical category B-1 was not considered eligible to get the scale of Rs.2650-4000 as 1<sup>st</sup> ACP and Rs.3050-4590/- as 2<sup>nd</sup> ACP. However, it has been submitted by the respondents that notwithstanding this ineligibility condition, applicant has been granted 1<sup>st</sup> ACP in the scale of Rs.2610-3540 and 2<sup>nd</sup> ACP in the scale of Rs.2650-4000/- with effect from 1.10.1999 vide order dated 28.12.2011 as per hierarchical scale based on the recommendations of 5<sup>th</sup> CPC. In view of this, they have prayed that this O.A. is liable to be dismissed being devoid of merit.



5. We upon perusal of the pleadings of the parties have heard the learned counsel for both the sides in great detail.

6. At the outset, we would like to note that grant of financial benefits under the ACP Scheme being purely personal wholly depends upon the service records of the employee concerned.

7. In the recent past, this Tribunal in O.A.No.1071 of 2012 – disposed of on 28.3.2016 had dealt with the facts and circumstances which are quite similar to the facts of the instant O.A. In Paragraph-24 of the order in O.A.No.1071 of 2012, this Tribunal held as under.

“At this juncture, we would at the cost of repetition like to say that nothing is forthcoming from the pleadings of the parties as to whether or not 1<sup>st</sup> and 2<sup>nd</sup> financial upgradations already been granted to the applicant with effect from 1.10.1999 in the scale of Rs.2610-3540 and Rs.2650-4000/-, respectively, are in the next higher grade in accordance with the existing hierarchy in a cadre/category of posts, which is the rallying point to clinch the issue. In view of this, it is considered expedient to remit the matter back to the railway-authorities for reconsideration of the matter in conformity with the following directions”.

8. Since the point to be decided in this O.A. has been considered and decided already in O.A.No.1071 of 2012 with certain directions to respondent-railways, we do not feel it inclined to make a departure from the view already taken and therefore, we issue the same directions as made in that O.A. for the respondents to carryout, as under.

- i) Whether 1<sup>st</sup> and 2<sup>nd</sup> financial upgradations that has been granted to the applicant in the scale of

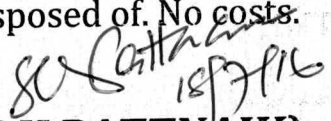


12  
Rs.2610-3540 and Rs.2650-4000/-, respectively, with effect from 1.10.1999 are in the next higher grade in accordance with the existing hierarchy in a cadre/category of posts.

- ii) If the reconsideration on the above point turns out affirmatively, there is no need to further grant 1<sup>st</sup> and 2<sup>nd</sup> ACP in the scale of Rs. 2650-4000 and 3050-4590/- with effect from 1.10.1999, as claimed by the applicant in this O.A.
- iii) If the outcome of reconsideration is in the negative, then the respondents shall consider grant of 1<sup>st</sup> and 2<sup>nd</sup> ACP in the scale of Rs. 2650-4000 and 3050-4590/- with effect from 1.10.1999 in favour of the applicant based upon other conditions than medical standard, as applicable to ACP Scheme and in such eventuality, if he is found suitable for the same, he be granted the consequential financial benefits.

9. In view of the above, orders dated 28.12.2011(A/8) and dated 30.12.2011(A/9) are quashed and set aside. Respondents are directed to carry into effect the above direction and communicate the decision thereon to the applicant within a period of 120 days from the date of receipt of this order.

10. With the observations and directions, the O.A. is thus disposed of. No costs.

  
(S.K.PATTNAIK)  
MEMBER(J)

  
(R.C.MISRA)  
MEMBER(A)

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