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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A. No.130 of 2013
Cuttack, this the 19th Day of March, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

.....

Ananda,
aged about 67 years,
S/o.Late Nakhia,
Retired Track Man,
Engineering/Construction/
East Coast Railway,
Rail Vihar, Chandrasekharpur,
Bhubaneswar,
permanent resident of
Vill.-Kalahandia,
P.O.-Betara,
Dist-Bhadrak, Odisha.

.....Applicant

(By Advocate(s): M/s N.R. Routray, T.K. Choudhury, S.K. Mohanty, Mrs. J. Pradhan.)

VERSUS

Union of India represented through

1. The General Manager,
East Coast Railway,
Rail Vihar,
Chandrasekharpur,
Bhubaneswar,
Dist-Khurda.
2. Sr. Personnel Officer,
Con./Co-ord/
East Coast Railway,
Rail Vihar,
Chandrasekharpur,
Bhubaneswar,
Dist-Khurda.

..... Respondents

(By Advocate: Mr. T. Rath)

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ORDER (Oral)

A.K. PATNAIK, MEMBER (J):

The Applicant is a retired Railway employee. He has filed this Original Application with prayers to direct the Respondent to grant 1st & 2nd financial up gradation under ACP Scheme in the scale of Rs.2650-4000/- & Rs.3050-4590/- w.e.f. 01.10.1999 and pay the differential arrear salary from 01.10.1999 to 30.11.2003, leave salary, DCRG, commuted value of pension and pension with 12% interest for the delayed period.

2. Copy of this O.A has been served on Mr. T. Rath, Learned Standing Counsel for the Railway. Heard Mr. N.R. Routray, Learned Counsel for the Applicant and Mr. T. Rath, Learned Standing Counsel appearing for the Respondents and perused the records.

3. Mr. Rath, Learned Standing Counsel, at the outset, by placing reliance heavily on the decision of the Hon'ble Apex Court in the case of U.P. Jal Nigam has submitted that on the face of the facts and prayer in this O.A. is not entertainable and is liable to be dismissed on the ground of delay and laches. On the other hand, by placing reliance on the decision of the Hon'ble Apex Court in the case of K.C. Sharma, Mr. Routray, Learned Counsel appearing for the Applicant objected to the contentions advanced by Mr. Rath and has submitted that this being a claim of financial benefits is a recurring cause of action and therefore, the delay should not stand as a bar for entertaining this O.A.

4. Be that as it may, the applicant being a retired employee of the railway and seeks financial up gradation under ACP as he has not been communicated anything on his representation dated 16.06.2012 at Annexure-A/5 as alleged, without expressing any opinion on the merit of the matter this O.A. is disposed of at this admission stage with direction to the Respondent No.2 to examine the grievance of the applicant, as

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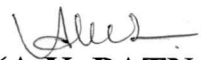
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raised in his representation at Annexure-A/5, on merit, and communicate the result thereof in a reasoned order to the Applicant, if not already done, within a period of two months from the date of receipt of copy of this order and on examination, if it is held that the applicant is entitled to such benefit, then the same may be paid to the applicant within a period of three months thereafter, there shall be no order as to costs.

5. Subject to furnishing postal requisite within a period of two days, as undertaken by the Learned Counsel for the applicant, copy of this order along with O.A. be sent to Respondent No.2 for compliance.


(A.K. PATNAIK)
MEMBER(JUDL.)

K.B.