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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**O.A. No.49 OF 2013**

**Cuttack, this the 06<sup>th</sup> day of February, 2013**

**CORAM**

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

**HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)**

Hura, aged about 69 years, S/o. Late Hari, Retired Track Man, Engineering/Construction/East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, permanent resident of Vill.-Damodarpur, P.O.-Mantira, Dist-Jajpur, Odisha.

.....Applicant

(By 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,  
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)

**ORDER (Oral)**

**MR. 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 1<sup>st</sup> & 2<sup>nd</sup> financial up gradation under ACP Scheme in in scale of Rs.2650-4000 and Rs.3050-4590/- w.e.f. 01.10.1999 and payment of consequential financial benefits.



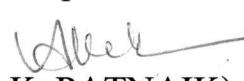
2. Copy of this O.A has been served on Mr. T. Rath, Learned Standing Counsel for the Railway. Heard Mr. N.R. Routray, Learned Counsel for the Applicant and Mr. T. Rath, Learned Standing Counsel appearing for the Respondents and perused the records.

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 the prayer in this O.A. is not entertainable and hence 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 seeks financial up gradation under ACP, seeking which he has already made a representation dated 16.06.2012 at Annexure-A/7 and till date he has received no communication as alleged, therefore, 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 raised in his representation, and communicate the result thereof in a reasoned and speaking 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 ~~and~~ if it is held that the applicant is entitled to such benefit, then the same may be extended to him within a period of two 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.

(R.C. MISRA)   
MEMBER(ADMN.)

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