

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O.A.No.54 of 2013**

Cuttack this the 18<sup>th</sup> day of July, 2016

Maina Soren ....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)**

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

Maina Soren  
Aged about 57 years  
w/o- late Barsa Soren  
retired Khalasi Helper  
Office of Deputy Chief Engineer/Construction  
East Coast Railway  
Station Bazar  
Cuttack  
Permanent resident of Vill./P.O-Laxmankhunta  
Via/PS-Rupsa  
Dist-Balasore

....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. Senior Personnel Officer, Con./Coordination  
East Coast Railway,  
Rail Vihar,  
Chandrasekharpur  
Bhubaneswar

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Dist-Khurda

3. Deputy Chief Engineer/Con.,  
East Coast Railway,  
Station Bazar  
Town/Dist-Cuttack
4. F.A. & C.A.O./Con.,  
East Coast Railway  
Rail Vihar,  
Chandrasekharpur  
Bhubaneswar  
Dist-Khurda

....Respondents

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

**ORDER**

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

Applicant in this Original Application is the wife of the deceased railway employee, Barsa Soren. She had earlier approached this Tribunal in O.A.No.231 of 2012 for direction to respondent-railways to grant 1<sup>st</sup> and 2<sup>nd</sup> financial upgradation under the ACP Scheme with effect from 01.10.1999 that was accrued to her husband in her favour and release of consequential financial benefits thereon. This Tribunal vide order dated 25.9.2012 disposed of the said O.A. with direction to respondent no.2 therein to consider the case of the applicant for grant of 1<sup>st</sup> and 2<sup>nd</sup> financial upgradation under the ACP Scheme with effect from 01.10.1999 as per their order No.DCPO/Con./BBS/P-43/ACP/57/00752 dated 31.01.2005(Annexure-A/4) and letter No.ECoR/Pers/04/ACP dated 28.12.2004 (Annexure-A/7) and pass a reasoned and

  
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speaking order within a stipulated time. In obedience to this order, the Railway Administration passed a speaking order dated 5/6.11.2012(A/5) by rejecting the claim of the applicant. Hence, applicant has moved this Tribunal in this O.A. seeking the following relief.

*"To direct the respondents to grant 1<sup>st</sup> and 2<sup>nd</sup> financial up-gradation under ACP Scheme 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 for the delayed period".*

2. Admitted facts of the matter are that initially, husband of the applicant had been engaged in the railway as casual Khalasi with effect from 09.03.1973 on daily rate basis. Subsequently, he was granted temporary status with effect from 5.12.1981 and while working as such, he was regularized against PCR Khalasi post with effect from 1.4.1973 in the scale Rs.750-940/- Thereafter, applicant's husband retired from service voluntarily with effect from 30.09.2001 thereby rendering <sup>more than 28</sup> ~~33~~ years of qualifying service and accordingly, pension dues have been settled.

3. It is a fact on record that during the course of his service applicant's husband had neither availed of any promotion nor had he been granted any financial benefits under the ACP Scheme. It is also an admitted position that applicant's husband was not granted the benefit of financial upgradations because of the fact that he was not fit in B-1 medical category. According

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to Estt.Sr.No.288/99 issued by the Railway Board, while granting ACP benefits, normal promotion norms prescribed should be fulfilled by the employee concerned. In the above background, applicant having been declared fit in C-1 medical category against the required eligibility condition of B-1 medical category, 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. While stating so, in Paragraph-5 of the speaking order dated 05/06.11.2012(/5), it has been brought out by the respondent-authorities as under.

"According to Order No.CPO/Con/BBS/P.23/ACP/57/00752 dated 31.01.2005 (Annexure-A/4) and letter No.ECor/Pers./Con/04/ACP dated 28.12.2004 at Annexure-A/7, your husband is due for 1<sup>st</sup> financial upgradation under ACP Scheme in scale Rs.2610-3540/- from scale Rs.2550-3200 & 2<sup>nd</sup> financial upgradation in scale Rs.2650-4000/- from scale Rs.2610-3540/- (i.e., hierarchy scale) w.e.f. 01.10.1999 under ACP Scheme as per terms and conditions prevailed in item No.6(a) of Estt.Srl.No.288/99".

4. We upon perusal of records have heard the learned counsel for both the sides in *extenso*. Respondents in the impugned order as well as in their counter have candidly admitted that during the 33 years of service, applicant's husband had neither received any promotion nor had he been bestowed with financial upgradations under the ACP Scheme. It is also an admitted position that applicant's husband retired from service voluntarily with effect from 30.09.2001 in the



scale of Rs.2550-3200/-.

In this connection, it is to be noted even conceding for the sake of argument that applicant's husband having not qualified in B-1 medical category was not considered eligible for grant of 1<sup>st</sup> and 2<sup>nd</sup> financial upgradation under the ACP Scheme in the scale of Rs.2650-4000/- and Rs.3050-4590/- respectively, but, there was no justification on the part of the respondents in not granting the scale of Rs.2610-3540/- and Rs.2650-4000/- towards 1<sup>st</sup> and 2<sup>nd</sup> financial upgradation under the ACP Scheme with effect from 1.10.1999, as has been admitted by them above. We also observe that in very many cases, this Tribunal has come across <sup>instances</sup> wherein the respondents have granted the 1<sup>st</sup> and 2<sup>nd</sup> financial upgradations in the scale of Rs. 2610-3540/- and Rs.2650-4000/- from the scale of Rs.2550-3200/- under similar circumstances. Viewed from this, the action in not granting the aforesaid financial benefits in favour of the applicant as a measure of compliance of the orders of this Tribunal in O.A. No.231 of 2012 cannot be said to be a healthy practice in the personnel administration of the respondent-railways. In view of this, we have no hesitation to quash the impugned order dated 05/06.11.2012(A/5) and accordingly, the same is quashed. In effect, we direct the respondents to consider grant of 1<sup>st</sup> and 2<sup>nd</sup> financial benefits in favour of the applicant in the scale of Rs. 2610-3540/- and Rs.2650-4000/- respectively, with effect from 1.10.1999 and in such eventuality, consequential financial benefits shall be due <sup>paid as</sup>

and admissible. This exercise shall be completed by the respondents within a period of (120) one hundred twenty days from the date of receipt of this order.

In the result, the O.A. is allowed as above. No costs.

*S.K.Pattnaik*  
(S.K.PATTNAIK)

**MEMBER(J)**

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

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