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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.801 of 2013

Cuttack this the 30<sup>th</sup> day of July, 2015

CORAM

*HON'BLE SHRI A.K.PATNAIK, MEMBER(J)*

*HON'BLE SHRI R.C.MISRA, MEMBER(A)*

Kumuda Chandra Patel  
Aged about 57 years  
Son of late Dharani Dhar Patel  
Permanent resident of At-Dehurunimal  
PO-Fashimal  
Dist-Sambalpur  
At present working as Technician-III/Machinist  
Office of CWM/CRW/East Coast Railway  
Mancheswar  
Bhubaneswar  
Dist-Khurda

...Applicant

By the 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  
E.Co.R.Sadan  
Chandrasekharapur  
Bhubaneswar  
Dist-Khurda
2. Chief Workshop Manager  
Carriage Repair Workshop  
East Coast Railway  
Mancheswar  
Bhubaneswar  
Dist-Khurda
3. Workshop Personnel Officer  
Carriage Repair Workshop  
East Coast Railway  
Mancheswar



Bhubaneswar  
Dist-Khurda

4. Mr.S.K.Mishra, W.P.O.  
Carriage Repair Workshop  
East Coast Railway  
Mancheswar  
Bhubaneswar  
Dist-Khurda

...Respondents

By the Advocate(s)-Mr.S.Barik

**ORDER**

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

Presently applicant is working as Technician-III/Machinist in the Office of CWM/CRW/East Coast Railway, Mancheswar. His grievance is directed against the order dated A/9 dated 24.10.2013 whereby and whereunder his request for grant of 1<sup>st</sup> financial upgradation under the ACP Scheme with effect from 10.04. 2000 in the scale of Rs.4000-6000/- has been rejected by the respondents. In the circumstances, he has sought for the following relief.

- i) To quash the order of rejection dated 24.10.2013 under Annexure-A/9.
- ii) To direct the Respondents to grant 1<sup>st</sup> financial upgradation with effect from 30.03. 2000 and pay the differential arrear salary by re-fixing his pay in the scale of Rs.4000-6000/-.

2. Shorn of unnecessary details, it would suffice to mention that applicant initially joined in the S.E. Railways as Skilled Artisan/Machinist with effect from 11.04.1988 in the scale of Rs.950-1500/- through a regular process of selection.



Thereafter, he was sent for training for a period of six months. On completion of training, he was allowed to continue in the post in question in the scale of Rs.950-1550/- and in the end, his service was regularized vide order dated 3.9.1991 against the existing post of Skilled Artisan Gr.III carrying the scale of Rs.950-1500/-. In this background, applicant claims that his training period till the date of his regularization in service should be taken into account for the purpose of grant of 1<sup>st</sup> financial upgradation under the ACP Scheme.

3. It is the case of the respondents that applicant was appointed as Trainee Artisan with stipendiary pay and his service was regularized against working post with effect from 3.9.1991. Therefore, the period from 11.04.1988 to 03.09.1991 was treated as training as there was no scope at all to regularize him in the absence of regular working post. This being the position, it has been stated by the respondents that since applicant had not completed 12 years regular service as on 10.04.2000, he was not entitled to get the benefit of 1<sup>st</sup> financial upgradation under the ACP Scheme with effect from that date.

4. From the above, the sole point discernible is whether the period spent under training till the date of regularization of his service is reckonable for the purpose of grant of 1<sup>st</sup> financial upgradation under the ACP Scheme.



5. The above point has already been settled by the decision of this Tribunal dated 22.03.2012 in O.A.No.192 of 2010 as the same has been upheld by the Hon'ble High Court vide order dated 06.02.2013 in W.P.C.No.12425 of 2012 and thereafter, the matter on being appealed of in SLP ( C ) No.11040 of 2013, the Hon'ble Supreme Court dismissed the same vide order dated 02.08.2013. Following the above decision, this Tribunal, later on also granted similar relief to the applicant in O.A.No.41 of 2011. Therefore, in our considered view, the point in issue being set at rest, we have no hesitation to hold that the period spent under training till the date of regularization of his service is reckonable for the purpose of grant of 1<sup>st</sup> financial upgradation under the ACP Scheme. Accordingly, we quash the impugned order dated 24.10.2013(A/9) and direct the respondent-Railways to reconsider the claim of the applicant for grant of 1<sup>st</sup> ACP on completion of 12 years' service from 11.04.1988, by conducting a review Screening Committee meeting and subject to fulfillment of other conditions, he be so granted with consequential financial benefits.

6. The above exercise shall be completed within a period of 120 days from the date of receipt of this order.

7. In the result, the O.A. is allowed to the extent indicated above. However, there shall be no order as to costs.

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



**(A.K.PATNAIK)**  
**MEMBER(J)**

