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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH:CUTTACK

OANo.904 of 2013
Cuttack, this the 2nd day of January, 2014

CORAM
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)
THE HON'BLE MR.R.C.MISRA, MEMBER(ADMN.)

Raghunath Parida, aged about 57 years, Son of Late Krushna Chandra Parida at present working as a Senior Section Officer (Accounts), O/O the FA & CAO/East Coast Railway/E.Co.R.Sadan, Chandrasekharpur, Bhubaneswar resident of Quarter No.D-17-G, Rail Vihar, East Coast Railway, Chandrasekharpur, Bhubaneswar-751023, Odisha.

....Applicant

(Legal Practitioner: M/s.N.R.Routray, Smt.J.Pradhan,
T.K.Choudhury, S.K.Mohanty)

Versus

UNION OF INDIA REPRESENTED THROUGH-

1. The General Manager, East Coast Railway, E.Co.R. Sadan, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Financial Advisor & Chief Accounts Officer/East Coast Railway, E.Co.R.Sadan, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. The Director Finance (CCA) Room No.425, Rail Bhawan, Railway Board, New Delhi-110001.

.....Respondents

(Legal practitioner: Mr.T.Rath)

O R D E R (Oral)

A.K.PATNAIK, MEMBER (JUDICIAL):

Heard Mr.N.R.Routray, Learned Counsel, appearing for the Applicant and Mr.T.Rath, Learned Standing Counsel (Railway) appearing for the Respondents and perused the records. Registry is directed to serve

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notice, in terms of sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987.

2. The Applicant who is working as Senior Section Officer (Accounts) in the Office of the FA & CAO/ECoRly, Bhubaneswar has filed this OA, praying for direction to the Respondents to grant him 3rd financial upgradation under MACP scheme w.e.f. 01.09.2008 in PB 3 with GP of Rs.5400/- and pay him the differential arrear salary with 12% interest for the delayed payment, as per the order of the Madras Bench of the Tribunal dated 26.08.2008 in OA No.335/2007 in which it was held that up gradation of scale on restructuring of cadre cannot be treated as promotion to deprive an employee financial up gradation under ACP. The above order of the Madras Bench of the Tribunal was subsequently upheld by the Hon'ble High Court of Madras vide order dated 19.10.2010 in WP No.21112/2009 and Hon'ble Apex Court in Special Leave Appeal (Civil) CC No.9422/2011 on 04.01.2012. According to the Applicant, on 01.02.1983, he was appointed as a Clerk Grade-I in the pay scale of Rs.330-560/. Subsequently, on 13.02.1990 he was promoted to the post of SO (A) and thereafter on 28.02.1994 to Senior SO (A). He was granted third financial up gradation under MACP to PB 2 in GP Rs.5400/- on 05.03.2010.

Further case of the Applicant is that ~~as against~~ the decision of the Railway administration, treating restructuring cadre of JAA to AA as promotion, thereby denying financial up gradation under ACP, was

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challenged, before the Madras Bench of the Tribunal in OA No. 335 of 2007. The said OA was disposed of by the Madras Bench of the Tribunal on 26.08.2008 in which it was held that benefits granted to the employees on restructuring of cadre is not promotion. The said order of the Madras Bench of the Tribunal was challenged by the Railways before the Hon'ble High Court of Madras in WP No.21112/2009 but the same was dismissed on 19.10.2010. Thereafter, Railways filed SLP (Civil) CC No.9422/2011 before the Hon'ble Supreme Court of India but the same was also dismissed 04.01.2012. By making representation to Respondent No.2, the applicant has prayed for granting him 3rd financial upgradation under MACP scheme w.e.f. 01.09.2008 in PB 3 with GP of Rs.5400/- as per the order of the Madras Bench of the Tribunal and the Respondent No.3 forwarded the said representation to the competent authority i.e. Respondent No.3 but according to the applicant he has neither been granted the benefits of the MACP nor has he been communicated any decision thereon. But Mr.Rath has no immediate instruction, if any decision has been taken on the representation, if at all submitted by the applicant and the same was forwarded to Respondent No.3. In view of the above, without entering into the merit of the matter this OA is disposed of with direction to the Respondent No.3 that if any such representation, as submitted by the Applicant has been received by him and no decision has been taken thereon, then he should consider the same, keeping in mind the order of the Madras Bench of the Tribunal, as



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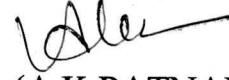
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aforesaid, and communicate the decision to the Applicant in a well reasoned order within a period of 60(sixty) days from the date of receipt of copy of this order.

3. On the prayer of Mr.Routray, copy of this order be sent to Respondent No.3, by speed post, at his cost, for which he undertakes to furnish the postal requisite in course of the day.


(R.C.MISRA)

Member (Admn.)


(A.K.PATNAIK)

Member (Judicial)