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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.N0.923 of 2013
Cuttack this the 26th of April, 2016

Bhagaban Mishra....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

(R.C.MISRA)
MEMBER(A)

(A.K.PATNAIK)
MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.N0.923 of 2013

Cuttack this the of 2016

CORAM:
HON'BLE SHRI A.K.PATNAIK,MEMBER(J)
HON'BLE SHRI R.C.MISRA,MEMBER(A)

Bhagaban Mishra
Aged about 54 years,
S/o- late Kanduri Mishra
Resident at Qr.No.MIG/II, 32/4
H.B.Colony
Chandrasekharpur
Bhubaneswar
Dist-Khurda
At present working as a Welder, Gr.II
Office of C.W.M/CRW/
East Coast Railway,
Mancheswar,
Bhubaneswar
Dist-Khurda

...Applicant

By the Advocate(s)-M/s.N.R.Routray
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. Chief Workshop Manager,
Carriage Repair Workshop,
East Coast Railway,
Mancheswar,
Bhubaneswar
Dist-Khurda

3. Workshop Personnel Officer,

Carriage Repair Workshop
E.Co.Rly.,
Mancheswar,
Bhubaneswar,
Dist.-Khurda

4. Mr. S.K. Mishra, W.P.O.,
Carriage Repair Workshop
E.Co.Rly.,
Mancheswar,
Bhubaneswar,
Dist-Khurda

...Respondents

By the Advocate(s)-Mr.B.B.Pattnaik

ORDER

R.C.MISRA,MEMBER(A)

In this Original Application under Section 19 of the A.T.Act, 1985, applicant, presently working as Welder, Gr.III under the East Coast Railways has sought for the following relief.

i) To quash the order of rejection dated 25.11.2013 under Annexure-A/8.

ii) And to direct the Respondents to grant 1st financial upgradation w.e.f. 7.4.2000 and pay the differential arrear salary with 12% interest by refixing his pay in the scale of Rs.4000-6000/- by extending benefits of order under Annexure-A/3 & A/4.

iii) And to direct the Respondent No.4 to pay compensation of Rs.20,000/-.

2. Facts of the matter in brief are that earlier applicant had approached this Tribunal in O.A.No.721 of 2013 seeking the same relief. This Tribunal vide order dated 1.11.2013 disposed

of the said matter at the stage of admission with direction to respondent-railways, particularly, res. No.3 to take a decision on the representation dated 14.2.2013 and communicate the same to the applicant in a well-reasoned order within a period of sixty days from the date of receipt of copy of the said order. In compliance with the aforesaid direction, res.no.3 considered the matter and communicated his decision to the applicant vide A/8 dated 25.11.2013, by rejecting his claim. Hence, applicant, by questioning the legality and maintainability of A/8 dated 25.11.2013, has moved this Tribunal in the instant O.A. seeking the relief as aforesaid.

3. Shorn of unnecessary details, it would suffice to note that the main thrust of this O.A. is regarding grant of 1st financial upgradation under the ACP Scheme by taking into account the period spent on training. On the other hand, it is the specific case of the respondents that applicant's service having been regularized with effect from 4.9.1997, twelve years' regular service would count only from that date for the purpose of 1st A.C.P.

4. We have heard the learned counsel for both the sides and perused the pleadings of the parties. It is to be noted that the grounds urged by the respondents in ~~in~~ support of rejection of the claim of the applicant are almost the same as that of the counter filed in O.A. No. 849 of 2013, in which This Tribunal has

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dealt with all the points raised by the in great detail. However, it is to be mentioned that the point in issue to be decided is whether the period spent on training should be taken into account for the purpose of grant of 1st financial benefits under the ACP Scheme. This point is no longer *res integra* in view of the decision of this Tribunal in O.A.No.192 of 2010 against which appeal preferred by the respondent-railways in WPC No.12425 of 2012 has been dismissed and subsequently, on being appealed of, the Hon'ble Supreme Court has also dismissed the SLP No.11040 of 2013. The vital point which we would like to note here is that the respondents by granting applicant increment as per Estt.Srl.No.109/1992 have treated the period spent on training as duty, based on which O.A.No.192 of 2010 had been allowed by this Tribunal in favour of the applicant. Since the matter has already attained finality and following the ratio decided therein, a number of matters have been decided in favour of the similarly situated persons, we do not find any justifiable reason to take a divergent view in the case in hand.

5. For the reasons discussed above, we have no hesitation to hold that the grievance of the applicant in this O.A. is squarely covered by the decision of this Tribunal in O.A.No.192 of 2010, as upheld by the Hon'ble High Court and subsequently, SLP has been dismissed by the Hon'ble Supreme Court. In view of this, we quash the order of rejection dated 25.11.2013 under

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Annexure-A/8 and direct the Respondents to grant 1st financial upgradation under the ACP Scheme on completion of 12 years' service from 8.4.1988 with the consequential financial benefits in favour of the applicant within a period of 120 days from the date of receipt of this order.

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

(R.C.MISRA)
MEMBER(A)

(A.K.PATNAIK)
MEMBER(J)

BKS