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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00090 of 2014

Cuttack this the 30th day of July, 2015

J.J.Mohan Rao ...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 referred to various Benches of the Tribunal or not ? No


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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

J.Jagan Mohan Rao
Aged about 54 years
Son of late J.Krishna Das
At present working as Welder Grade-II
CRW/East Coast Railway
Mancheswar
Resident of Qr.No.LIG-20/9
Phase-1
Chandrasekharpur
Bhubaneswar
Dist-Khurda
Odisha

...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
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
East Coast Railway
Mancheswar



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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.K.Ojha

ORDER

R.C.MISRA, MEMBER(A):

Presently applicant is working as Welder Grade-II in the Office of CRW/East Coast Railway, Mancheswar. His grievance is directed against the order dated A/8 dated 09.01.2014 whereby and whereunder his request for grant of 1st financial upgradation under the ACP Scheme with effect from 07.04.2000 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 09.01.2014 under Annexure-A/8.
- ii) To direct the Respondents to grant 1st financial upgradation with effect from 07.04.2000 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 as Welder in the S.E. Railways with effect from 08.04.1988 in the scale of Rs.950-1500/- through a regular process of selection. Thereafter, he was sent



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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 04.06.1997 against the existing post of Welder Grade-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 1st 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 04.06.1997. Therefore, the period from 08.04.1988 to 03.06.1997 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 07.04.2000, he was not entitled to get the benefit of 1st 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 1st 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 1st financial upgradation under the ACP Scheme. Accordingly, we quash the impugned order dated 09.01.201⁴₆(A/8) and direct the respondent-Railways to reconsider the claim of the applicant for grant of 1st ACP on completion of 12 years' service from 08.04.1988, 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)