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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.260/00109 of 2014  
Cuttack this the 30<sup>th</sup> day of July, 2015

Surendra Kumar Majhi...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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CORAM

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

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

Surendra Kumar Majhi  
Aged about 59 years  
Son of Gayadhar Majhi  
Permanent resident of Vill/PO-Bishnupur  
Dist-Balasore  
At present working as Technician, Gr.II(SMW)  
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.T.Rath

**ORDER**

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

Presently applicant is working as Technician, Gr.II(SMW) in the Office of CWM/CRW/East Coast Railway, Mancheswar. His grievance is directed against the order dated A/8 dated 08.01.2014 whereby and whereunder his request for grant of 1<sup>st</sup> 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 08.01.2014 under Annexure-A/8.
- ii) To direct the Respondents to grant 1<sup>st</sup> financial upgradation with effect from 7.4.2000 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 Skilled Artisan Grade-III(SMW) in the S.E. Railways with effect from 08.04.1988 in the scale of Rs.950-1500/- through a regular process of

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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 4.9.1997 against the existing post of SMW 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 4.9.1997. Therefore, the period from 08.04.1988 to 03.09.1997 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 rightly his service was taken into account for granting 1<sup>st</sup> financial upgradation under the ACP Scheme on completion of 12 years regular service with effect from 04.09.1997.

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



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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 08.01.2014(A/8) 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 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)**

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