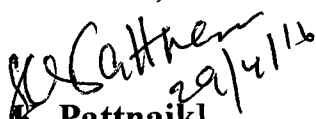



dated 11.12.2009 [Annexure-5], they have passed the speaking order and claimed that there has been substantial compliance of the order of this Tribunal passed in original application, therefore, the contempt proceeding may be dropped. The respondents have also enclosed the list of other orders passed in connection with the present case along with their additional show cause.

4. This Tribunal does not sit as a Head Accountant of the administrative department. Though the Tribunal had directed that the applicant to be granted promotion with salary on the post of DMS-I after having earned promotion to the post of DMS-II, i.e. on 04.02.2006, the applicant will be further entitled to promotion on the post of Chief DMS and AMM with payment of salary, if found suitable, according to the recruitment rules at par with his junior M.E. Haque. In such backdrop, whether the applicant is to be paid salary with effect from the date his promotion due or from the date he acquires promotional post, is a matter to be adjudicated separately and cannot be adjudicated within the frame work of this contempt proceeding. Since, there was no specific order in the OA to grant arrear salary over-looking principles of 'no work no pay', such a promotion cannot be granted under the umbrella of the present contempt proceeding. In the pay fixation order, it has been clearly reflected of granting proforma promotion at par with his junior w.e.f. 01.03.2003 and actual promotion benefit w.e.f. 08.12.2008 i.e. from actual date of shouldering responsibility of higher post. We find substantial compliance of the order of this Tribunal.

5. Accordingly, the contempt proceeding is dropped and the notices issued to the alleged contemnors are hereby discharged. If the applicant has any other residual dues, he is at liberty to pursue at the departmental level. No costs.


[S.K. Pattnaik]
Member [Judicial]
mps-


[A.E. Ahmad]
Member [Admn.]