CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

CIRCUIT COURT SITTING AT BILASPUR

Original Application No 731 of 2004

Jabalpur, this the 21st day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

1. Smt. Aliamma Joseph,
   Primary School Teacher
   Mixed Higher Secondary Scholl(E/M)
   South East Central Railway, Bilaspur(CG)

2. Smt. Gilda Hichen
   (Formerly Kum. Gilda Thomas)
   Primary School Teacher,
   Mixed Higher Secondary School(E/M)
   South East Central Railway, Bilaspur(CG)   Applicants

(By Advocate – Shri P.Shankaran)

VERSUS

1. The Union of India
   Through : The General Manager,
   South East Central Railway
   Bilaspur(CG).

2. The Divisional Railway Manager,
   Bilaspur Division, South East Central Railway
   Bilaspur(CG)

3. The Sr. Divisional Personnel Officer
   South East Central Railway
   Bilaspur(CG)

4. The Senior Divisional Accounts officer
   South East Central Railway, Bilaspur(CG)   Respondents

(By Advocate – Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

"a)   declare that the applicants are similarly situated like the appellants in SLP No.21533/1994 and in OA No.435/1997 and they are entitled to get the same benefit of minimum of the pay scale of Primary School Teacher for the period they worked as Causal Teacher prior to their regularization as per the law of the apex court and extended to similarly situated other Teachers.

b)   direct the Respondents to grant the same benefit as extended to similarly situated Teachers in both the above cases with all consequential benefits and to make payment of arrears of difference in the pay already drawn and pay for which they are entitled to as per above law.

c)   direct the respondents for payment of interest at then prevailing rate for the arbitrary delay in making payment of minimum of the pay scale of Primary School Teacher to Applicants for the period they worked as such prior to their regularization.

2.   The brief facts of the case are that the applicant No.1 was initially appointed as Casual Primary School Teacher under the respondents vide order dated 22.11.1985(Annexure A-1) and applicant no.2 was also appointed as Casual Teacher on 28.8.1984. However, they were not granted regular pay scale of School Teacher. They were given the pay scale only as applicable to Class IV post of Khalasi. Being aggrieved by this, the applicants and other similarly situated employee had filed OAs Nos.271/1989 and 545/1989 for their regularization as Teacher and to grant them the regular pay scale as admissible to School Teachers from the date of their initial appointment. Both the aforesaid OAs were disposed of vide order dated 19.1.1994 with a direction to the respondents to regularize them. However, the Tribunal did not allow the prayer for pay scale and other benefits for the period they worked as Casual Teacher in the pay scale

of Khalasi. In pursuance to the order of the Tribunal dated 19.1.1994, the respondent no.3 issued an order dated 19.12.1994(Annexure-A-3) regularizing the applicants as Primary School Teacher in the pay scale of Rs.1200-2400. However the respondents denied them the pay scale of Primary School Teacher during the period they worked as Casual Teacher. According to the applicant, being aggrieved by the aforesaid order of the Tribunal dated 19.11994 passed in the OAs No.271/1989 and 545/1989 and the order passed by the respondent No.2 dated 22.11.1985, two applicants in the aforesaid OAs, have approached the Apex Court through SLP No.21533/1994. The Hon'ble Apex Court passed the judgment dated 30.4.1996(Annexure-A-2). After the judgment of the Hon'ble Supreme Court, the respondents extended the benefit of pay scale of School Teacher Rs.1200-2040 only to the appellants before the Supreme Court. Therefore, some of the similarly situated Teachers approached this Tribunal through OA No.435/1997 when the same benefits were denied to them by respondents even though they were similarly situated. The Tribunal vide order dated 21.12.2001(Annexure-A-4) directed the respondents to pay them @ the minimum of pay scale applicable to Teachers viz 330-560(Revised Rs.1200-2040) for the period of the service prior to the date of regularization as held by the Apex Court. The respondents extended the above benefits only to those who approached the Apex court/this Tribunal and the respondents denied the benefit to the present applicants only on the ground that they were not parties in the aforesaid OA No.435/1997 and the aforesaid SLP. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicants argued that the present case is squarely covered by the judgment of the Hon'ble Supreme Court in the case of **Anita Chakravorty & Anr. Vs. Union of India & Anr.** in S.L.P.(C)No.21533/94 decided on 30.4.1996 and also

covered by the decision of this Tribunal in the case of **Arjun Singh Vs. UOI & Anr** in OA No.435/97 decided on 21.12.200. The learned counsel for the applicants further argued that the benefits to the present applicants were not extended as per the judgement of Hon'ble Supreme Court and also the order of this Tribunal, only on the ground that the present applicants were not party in the aforesaid cases.

5.   The learned counsel for the respondents vehemently opposed the contentions of the learned counsel for the applicants and argued that the applicants are not entitled to the same benefits which was extended by the Apex Court in the case of Anita Chakravorty(supra) as well as order of this Tribunal in the case of Arjun Singh(supra).

6.   After hearing the learned counsel for the parties and on careful perusal of the records, we find that in the present case the respondents have not granted the same benefit to the applicants and denied only on the ground that they were not party in the aforesaid SLP and in the OA No. 435/97. We further find that the facts and grounds raised in this OA are exactly similar to the aforesaid SLP and in the OA No. 435/1997. We have perused the judgement of Hon'ble Supreme Court in case of Anita Chakravorty(supra) and the decision of this Tribunal in the case of Arjun Singh(supra).We also find that the Tribunal has decided the similar case of Arjun Singh(supra) keeping in mind the case of the Hon'ble Supreme Court in the case of Anita Chakravorty(supra) and held as under :-

> "5.   In view of discussions made above, the respondents are directed to pay for the period of the service of the applicants prior to the date of regularization at the minimum of the scale of pay applicable to teachers, viz. Rs.350-560(revised Rs.1200-2040). The respondents are directed to implement the above order within a period of six months from the date of receipt of copy of this order".

7.   We have given careful consideration to the rival contentions and on careful perusal of the records we find that the
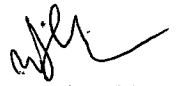
present case is squarely covered in all fours by the decision of this Tribunal in the case of Arjun Singh (supra). We are, therefore, in respectful agreement with the aforesaid order passed by this Tribunal and the same shall mutatis mutandis applicable to the case of the present applicants as well.

8.   In the result, the OA is disposed of in the above terms.   No costs.
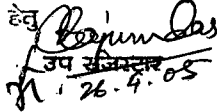

(Madan Mohan)   (M.P. Singh)
Judicial Member   Vice Chairman

पृष्ठांकन सं ओ/न्या.....................जबलपुर, दि...............
         प्रतिलिपि   अग्रेषित :–

(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.................के काउंसल   Shri P Shaleewar, H ध BP
(3) प्रत्यर्थी श्री/श्रीमती/कु.................के काउंसल   Shri CN N Banerjee, H ध BP.
(4) चंथपाल, के.प्र.अ., जबलपुर न्यायपीठ
      सूचना एवं आवश्यक कार्यवाही हेतु
                                   उप रजिस्ट्रार
                                   26.4.05