

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 260/00381 OF 2014
Cuttack, this the 21st day of June, 2018

CORAM
HON'BLE MR. S. K. PATTNAIK, MEMBER(J)
HON'BLE DR. M. SARANGI, MEMBER (A)

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Rabi Narayan Satapathy,
Aged about 54 years,
Son of Late Sitaram satapathy,
At present working as a Accounts Assistant,
O/o F.A & C.A.O/E.Co.Rly./E.Co.R.Sadan,
Chandrasekharpur, Bhubaneswar,
Permanent resident of Sahebzada Bazar,
Chandinichowk, Cuttack, Odisha.

...Applicant

(By the Advocate- M/s. N.R.Routray, T.K.Choudhury,
S.K.Mohanty, Smt. J.Pradhan)

-VERSUS-

Union of India Represented through

1. General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekarpur, Bhubaneswar, Dist-Khurda.
2. Financial Advisor & Chief Accounts Officer/ East Coast Railway, E.Co.R.Sadan, Chandrasekarpur, Bhubaneswar, Dist-Khurda.
3. Director Finance (CCA), Room No. 425, Rail Bhawan, Railway Board, New Delhi-110001.
4. Deputy Director, Pay Commission-V, Railway Board, New Delhi-110001.

...Respondents

(By the Advocate- Mr. T.Rath)

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O R D E R

S. K. PATTNAIK, MEMBER (J):

The applicant has filed this O.A. for the following reliefs as enumerated in paragraph 8:

- i) To quash the order of rejection dtd 24.02.2014 and 16.04.2014 under Annexure-A/13 series.*
- ii) And to direct the Respondents to grant 1st and 2nd financial up-gradation under the ACP Scheme w.e.f. 01.10.1999 & 31.01.2007 in scale of Rs. 6500-10500/- and Rs. 7450-11500/- (pre-revised) and grant 2nd financial upgradation under MACP Scheme in PB-2 with GP of Rs. 5400/- (revised) due to merger of scale of Rs. 6500-10500/- with Rs. 7450-11500/- w.e.f. 01.09.2008 by extending the benefit of order passed in O.A.No. 335/2007 under annexure-A/5 as granted vide order dtd. 13.08.2012 under Annexure-A/8.*
- iii) And to direct the respondents to pay the differential arrear salary with 12% interest for the delayed period of payment.*

And pass any other order”

2. The applicant is challenging the speaking order dated 16.04.2014 by which his claim for first and second financial upgradation under ACP Scheme has been rejected. The Railway-Respondents are relying on the clarificatory letter issued by the Railway Board on 24.02.2014. A co-ordinate Bench of this Tribunal in O.A. No. 247/2014 in the case of Parameswar Biswal Vs. UOI & Ors. vide order dated 25.07.2016 had quashed the speaking order and clarificatory letter dated 24.02.2014 issued by the Railway Board. Needless to say that the Railway administration had challenged the said order of this Tribunal before the Hon'ble High Court of Orissa in W.P(C). No. 5898/2017. The

Hon'ble High Court not only upheld the order of this Tribunal but also dismissed the Writ Petition taking into consideration the earlier decision confirmed by the Hon'ble Apex Court in S.L.P. No. 9422/2011. Needless to say that the aforesaid O.A. No. 247/2014 was disposed of based on the order passed by CAT, Madras Bench in O.A. No. 335/2007 (V.Venkataraman Vs. UOI). The said order of CAT, madras Bench was challenged before the Hon'ble High Court of Madras, which has upheld the order of the CAT, Madras Bench and dismissed the Writ Petition No. 21112/2009. Railway shad challenged the said order before the Hon'ble Apex Court in S.L.P(C). No. 9422/2011. The Hon'ble Apex court had dismissed the said SLP considering the pleadings and materials placed on record and observed that they did not find any merit in the SLP. In spite of such judicial pronouncement, the Railway administration is mechanically passing order in utter disregard to judicial decorum. It is no more res integra and has already been settled by judicial pronouncement that financial upgradation granted on restricting of pay scale during revision of pay shall not amount to promotion. When there is revision of pay on account of cadre restructuring it shall not amount to promotion. Since the matter has already been set at rest, we refrain from readjudicating the issue as the Railway Board is not competent to take a decision which will have the effect of nullifying an order passed by the CAT, Madras Bench or Cuttack Bench, upheld by the respective Hon'ble High Courts. When the matter has been set at rest by the Hon'ble Apex Court and the Madras Bench judgment has attained finality, no further

interpretation is permissible to render the judgment sterile. Any future attempt by the officials to outweigh the effect of judicial pronouncements shall be seriously viewed besides initiating contempt. Hence ordered.

The O.A. is allowed. The rejection order dated 16.04.2014 (Annexure-A/13 series) is hereby quashed. Since, the clarificatory letter of the Railway Board dated 24.02.2014 has already been quashed by this Tribunal in O.A.No. 247/2014 and upheld by the Hon'ble High Court in W.P(C). No. 5898/2017, no further quashing is needed. The Respondents are directed to extend similar benefit to the applicant, which has been extended to the Parameswar Biswal in the aforesaid O.A., and to calculate the entitlement of the applicant under ACP/MACP treating the restructuring as not promotion. The exercise be completed preferably within a period of three months. No costs.

(M. SARANGI)
Member (Admn.)

(S.K.PATTNAIK)
Member (Judl.)

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