

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT SITTING AT RANCHI
OA/051/00214/18**

Date of Order: 09.01.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

1. OA/051/00214/2018

Sidhanath Prasad Singh & 29 Others, Applicants.
By Advocate: - Mr. M.A. Khan
-Versus-
Union of India & Ors., Respondents.

By Advocate(s): - Mr. Prabhat Kumar
Mr. G.M. Mishra
Mrs. M. Patra for Mr. H.K. Mehta, Sr. SC

2. OA/051/00216/2018

Murari Prasad & 25 Others, Applicants.
By Advocate: - Mr. M.A. Khan
-Versus-
Union of India & Ors., Respondents.

By Advocate(s): - Mr. Prabhat Kumar
Mr. G.M. Mishra
Mrs. M. Patra for Mr. H.K. Mehta, Sr. SC

3. OA/051/00218/2018

Manoj Kumar & 29 Others, Applicants.
By Advocate: - Mr. M.A. Khan
-Versus-
Union of India & Ors., Respondents.

By Advocate(s): - Mr. Prabhat Kumar
Mr. G.M. Mishra
Mrs. M. Patra for Mr. H.K. Mehta, Sr. SC

4. OA/051/00219/2018

Anup Kumar Choubey & 29 Others, Applicants.
By Advocate: - Mr. M.A. Khan
-Versus-

Union of India & Ors., Respondents.

By Advocate(s): - Mr. Prabhat Kumar
Mr. G.M. Mishra
Mrs. M. Patra for Mr. H.K. Mehta, Sr. SC

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- Since the issue involved in all the OAs mentioned above is the same these are being disposed of by the following common order.

2. The case of the applicants is that they were initially appointed as Non-Executive employees in Bokaro Steel Plant of SAIL. Pursuant to the promotion policy of SAIL they were promoted to Executive Cadre in the year and/or batch 2008-10. However, after promotion, due to the wage revision benefit given to those in the Non-Executive Cadre from 01.01.2007, their salaries became lesser than that of those remaining in the Non-Executive cadre. To correct this anomaly the management has issued an order dated 29.12.2015 (Annexure A/8). Under this order those affected by this anomaly are allowed an additional fixed amount to make their Basic Pay plus DA equal to that of their junior in the Non-Executive Cadre. This was done from a prospective date, i.e. 01.01.2016. The applicants have requested for setting aside this order and for implementing any other formula which corrects the anomaly from the date the anomaly occurred.

2. The respondents in their written statement have raised an issue about the jurisdiction of this Tribunal and of the limitation period under Section 21 of the AT Act. They have also alleged that the applicants

were paid as per the relevant rules applicable to the Executive cadre. The lines of promotion of the Executive and Non-Executive are different and there is also difference in outcome of Non-Executive wage revision. There is no provision of applicability of minimum guarantee benefit on a subsequent date and hence the applicants cannot get the notional benefit of the Non-Executive wage revision from a back date once they are promoted to the Executive cadre. Since these are two different categories of employees their perks, allowances and incentives are different and, therefore, these two are not comparable. However, considering the grievance/anomaly of a peculiar nature the methodology for protection of difference in Basic + DA was chalked out and communicated by the order dated 29.12.2015. The respondents have further argued that the scales of Junior Managers and Assistant Managers have been further revised w.e.f. 31.12.2016 and hence the issue of anomaly raised by the applicants has been resolved after this revision.

3. We have gone through the pleadings and heard the counsel of both the parties at length.

4. On the issue of jurisdiction, we observe that this case was first filed before CAT, Calcutta Bench on 06.04.2017 and as per that bench's order dated 04.01.2018, it was ordered to be filed before Ranchi Circuit Bench. Since the place of working of the applicants is within the jurisdiction of the Ranchi Circuit Bench, we conclude that we have the jurisdiction to decide this matter. On the issue of limitation, it is clear that the impugned order is dated 29.12.2015 and the applicants have agitated this matter

before the Calcutta Bench of CAT since 06.04.2017. Since the non-payment of compensatory additional amount did result in a continuing loss , delay of a few months cannot be considered to be a fatal delay. Hence, we do not find this case to be barred by limitation.

5. During the course of the arguments the learned counsel for the applicants submitted that they would be satisfied if the Para - 2(iv) of the order dated 29.12.2015 (Annexure A/8) was revised to make the order applicable from the date on which the anomaly as defined in Para-2(i) of the same order occurred.

6. After going through the pleadings and hearing the arguments, it is clear that an anomaly did occur since the Basic + DA of employees in the executive cadre became less than those in the non-executive cadre. This fact is accepted in Annexure A/8. It is also clear that this dispute has mainly arisen because of making this order effective prospectively. No reason is given, either in the respondents' written statement or during the course of arguments, about why the correction of anomaly was implemented only from a prospective date. The learned counsel for the respondents did argue that the subsequent revisions in the pay and allowances of the executives have more than covered the loss that they might have suffered because of this anomaly. This cannot be considered as a correct explanation since these subsequent revisions were not limited to only the employees affected by the anomaly. In the absence of any logical explanation, for not correcting an accepted anomaly from the date from which the anomaly occurred , we are constrained to quash para 2(iv) of the order dated 29.12.2015

(Annexure A/8) and direct the respondents to issue appropriate orders, to make the additional fixed amount as mentioned in the said order, payable to the affected employees from the respective dates on which the anomaly occurred. Needless to say, all the other conditions mentioned in Annexure-8, for qualifying for payment of additional fixed amount, will remain. The OA is disposed of accordingly. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member