

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHCIRCUIT BENCH AT RANCHIOA/051/00051/2017w i t hMA/051/00025/2017Date of Order:- 08.01.2019C O R A M

HON'BLE MR. JAYESH V.BHAIRAVIA, MEMBER (JUDL.)

HON'BLE MR. DINESH SHARMA, MEMBER (ADMN.)

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Baidyanath Singh, son of Late Janeshwar Singh, retired Mail Express Guard (ME), Barwadih, E.C.Railway, Dhanbad, PO-Barwadih, District-Dhanbad.

.....Applicant.By Advocate:- Mrs. M.M.Pal, Sr. Adv.

Ms. Ruby Pandey.

Vs.

1. Union of India through General Manager, E.C.Railway, Hazipur, District-Hazipur.
2. Divisional Railway Manager, E.C.Railway, Dhanbad, District-Dhanbad (Jharkhand)—826 001.
3. Sr. Divisional Personnel Officer, E.C.Railway, Dhanbad, District-Dhanbad (Jharkhand)-826 001Respondents.

By Advocate:- Mr. P.D.Singh, Addl.Standing Counsel.O R D E R(ORAL)Jayesh V.Bhairavia, Member (Judl.):- This application has been filed

by the applicant praying for following reliefs:-

“8.1 The respondents be directed to refix the pay of this petitioner in the scale of Rs.1400-2300 (RP) i.e. prior to 5th Pay Commission in the scale of Rs.5000-8000 (RSRP) at par with the same and similarly situated persons.

8.2 The respondents be directed not to discriminate the petitioner and to extend the same benefit of refixation at par

with the petitioners in OA No. 73 of 2010 and OA No. 210 of 2006."

2. At the outset, the learned counsel for the applicant submitted that the applicant would be satisfied if a direction is given to the respondents to consider his claim objectively to extend the benefit of pay protection since the date of his promotion to the post of Goods Guard at par with the similarly situated persons, namely, R.S.Paswan, retired ME/Guard, who was applicant in OA No. 73 of 2010(R) (disposed of on 17.11.2014). It is stated that earlier also in a similar matter in pursuance of direction of this Tribunal in OA 210 of 2003 (Ashok Kumar & Ors. Vs. Union of India & Ors.) all the applicants therein were granted reliefs by way of pay protection. The applicant, being similarly situated, requested respondent authorities vide his representation dated 25.06.2015 to extend the similar benefits of pay protection at par with the similarly situated persons, but in vain. Ultimately, having no alternative the applicant has filed the instant OA for a direction upon the respondents to dispose of his pending representation and to extend similar benefits of pay protection at par with the similarly situated persons.

3. On the other hand, the learned counsel for the respondents opposed the contention of the applicant stating that the applicant herein is not similarly circumstanced like applicants of OA 73 of 2010 and OA 210 of 2006 and thus, he is not entitled for refixation of his pay or pay protection at par with the so-called similarly situated

persons. He, however, consented that this matter be disposed of in similar terms.

It has also been pointed out by the learned counsel for the respondents that this application is time barred. However, this is a matter of payment of higher salary which has recurring cause of action hence, so far filing of this application is concerned, it cannot be treated as time barred.

4. In that view of the matter, this application is disposed of with direction to concerned respondent i.e. respondent no.2 (Divisional Railway Manager, E.C.Railway, Dhanbad, District-Dhanbad Jharkhand—826 001) to consider the instant OA as representation on behalf of the applicant and to dispose that of by speaking order within a period of two months from the date of receipt/production of a copy of this order, and if it is found that the case of the applicant is similar to that of the applicants in OA 210 of 2003, similar benefits should be given to this applicant also.

5. With the aforesaid directions, this application is disposed of. No order as to costs.

Sd/-
(Dinesh Sharma)
Member (Admn.)

Sd/-
(Jayesh V. Bhairavia)
Member (Judl.)

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