

**Central Administrative Tribunal
Principal Bench, New Delhi**

**C.P. No. 692/2017
In
O.A. No. 2358/2015
M.A. No. 3282/2018**

This the 27th day of September, 2019

**Hon'ble Mr. R.N. Singh, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Sh. Khageswar Padhan
S/o Late Lingraj Padhan
Age 57 yrs.
R/o: Qr. No. H/82, Sector-2
Rourkela-769006, Odisha,
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odhisha
Pin-769002.

2. Sh. Pabitra Pradhan
S/o Late Raghunath Pradhan
Age 56 yrs.
R/o: Qr. No.L-II-90
Kalinga Vihar, Phase-II,
Chhend Colony, Rourkela-769015,
Odisha
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

3. Sh. Durga Madhab Padhi
S/o Late Bhabani Padhi
Age 54 yrs.

R/o: Qr. No. D/78,
Sector-6, Rourkela-769002,
Odisha
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

4. Sh. Prasana Kumar Behera
S/o Late Braja Sundar Behera
Age 52 yrs.
R/o: Qr. H/287, Sector-6 Rourkela-769002,
Odisha
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
5. Sh. Duryodhan Behera
S/o Late Dandapani Behera
Age 60 yrs.
R/o: Qr. No. ECR/194, Chhend Colony
Rourkela-769015,
Odisha
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
6. Sh. Suresh Chandra Pradhan
S/o Late Dasrath Pradhan
Age 51 yrs
R/o: Qr. E/114, Sector-6 Rourkela-769002,
Odisha
Presently posted at

National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

7. Sh. Ram Chandra Sethy
S/o Sri Arakhita Sethy
Age 54 yrs
R/o: Qr.A/58, Sector-7 Rourkela-769003,
Odisha.
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
8. Sh. Trilochan Sahu
S/o Sri Kasinath Sahu
Age 55 yrs
R/o: Qr. D/366, Sector-16 Rourkela-769003,
Odisha
Presently posted at
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Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
9. Sh. Sisira Kumar Satapathy
S/o Sri Surendra Nath Satapathy
Age 51 yrs
R/o: Qr.No. L/117, Ground Floor
Phase-II, Basanty Colony
Rourkela-769012,
Odisha.
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha

Pin-769002.

10. Sh. Kailash Chandra Dalai
S/o Late Raghunath Dalai
Age 50 yrs
R/o: Qr. No. E/72, Sector-6 Rourkela-769002,
Odisha
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
11. Sh. Ranka Nidhi Gouda
S/o Late Choudhury Gouda
Age 59 yrs
R/o Qr. No. E/46, Sector-6 Rourkela – 769002,
Odisha.
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Rourkela, Odisha
Pin-769002.
12. Sh. Krishna Chandra Panigrahi
S/o Late Satyabadi Panigrahi
Age 52 yrs
R/o: Qr. No. L/214, Phase-I,
Chhend Colony Rourkela – 769015,
Odisha.
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Rourkela, Odisha
Pin-769002.
13. Sh. Subash Candra Pattanayak
S/o Late Trinath Pattanayak

Age 59 yrs
R/o: Qr. No. C/322, Sector-6 Rourkela – 769002,
Odisha.
Presently posted at
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Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

14. Sh. Abhimanyu Sahu
S/o Late Digambar Sahu
Age 51 yrs
R/o: Qr. No. C/287, Sector-15 Rourkela-769003,
Odisha.
Presently posted at
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Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
15. Sh. Kishore Kumar Nahak
S/o Late Banchanidhi Nahak
Age 50 yrs.
R/o: Qr. No. C/398, Sector-6 Rourkela-769002,
Odisha
Presently posted at
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Rourkela, Odisha
Pin-769002.
16. Sh. Ramahari Sahu
S/o Sri Bipra Charan Sahu
Age 57 yrs
R/o: Plot No. L/84, Phase-I,
Chhend Colony
Rourkela-769015, Odisha
Presently posted at

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Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

17. Sh. Kapali Arjun Das
S/o Late K. Dasarathi Das
Age 54 yrs
R/o: Qr. No. E/35, Basanty Colony
Rourkela-769012, Odisha.
Presently posted at
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Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

18. Sh. Bidyadhar Bishoyi
S/o Late Pitambar Bishoyi
Age 58 yrs
R/o: Qr. No. C/133, Sector-15 Rourkela-769003,
Odisha.
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

19. Sh. Gopal Krushna Padhy
S/o Late Lingaraj Padhy
Age 54 yrs
R/o: Qr. No. C/274, Sector-6 Rourkela-769002,
Odisha.
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

20. Sh. Gangadhar Palai
S/o Late Krushna Chandra Palai
Age 50 yrs
R/o: Qr. No. C/301, Sector-6 Rourkela-769002,
Odisha.
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
21. Sh. Lochan Mohanty
S/o Late Rama Mohanty
Age 51 yrs
R/o: Qr. No. C2M/114, Phase-II,
Chhend Colony Rourkela-769015,
Odisha.
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
22. Sh. Trilochan Behera
S/o Late Sibaji Behera
Age 57 yrs
R/o: Qr. No. E/58, Sector-6 Rourkela-769002,
Odisha
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.
23. Sh. Narasingha Palai
S/o Late Krushna Chandra Palai
Age 52 yrs

R/o: Qr. No. C/296, Sector-6 Rourkela-769002,
Odisha.

Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

24. Mrs. Surya Nayak
W/o Late Debraj Nayak
Age 55 yrs
R/o: Qr. No. D/172, Sector-16
Rourkela, Odisha
Presently posted at
National Institute of Malaria Research
Field Unit, Sector-5
Rourkela, Odisha
Pin-769002.

...Applicants

(By Advocate: Sh. A.K. Behera)

VERSUS

1. Sh. C.K. Mishra
Secretary
Ministry of Health and Family Welfare
Nirman Bhawan
New Delhi – 110 001.
2. Dr. Soumya Swaminathan
Director General and Secretary
Department of Health Research
Indian Council of Medical Research
Ansari Nagar
New Delhi – 110 029.
3. Dr. Neena Valecha

Director
 National Institute of Malaria Research
 (Formerly Malaria Research Centre)
 Indian Council of Medical Research
 Sector-8, Dwarka
 New Delhi – 110077.

4. Sh. Ashok Lavasa
 Secretary
 Department of Expenditure
 Ministry of Finance
 North Block
 New Delhi – 110 001.

...Respondents

(By Advocates: Sh. Jasbir Bidhuri with Sh. Shashwat Sharma and Ms. Ritu Pama for Respondent No. 2 and 3;
 Sh. Hanu Bhaskar)

ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member(J):

Heard the learned counsels for the parties.

2. The present Contempt Petition has been filed alleging wilful disobedience of directions of this Tribunal in its order dated 05.12.2016 in OA No. 2358/2015. In the aforesaid OA, the operative portion of the order reads as under:-

*“23. In **S. Padmanaban** (*supra*), the applicant, who was appointed as Research Officer and completed his probation satisfactorily and also completed 25 years of*

*service, filed the OA seeking extension of the benefit of regularization on par with the applicants in OA No. 1332/2000, the orders in which attained finality and that the respondents therein complied with the same by creating 22 supernumerary posts. After considering **Uma Devi** (Supra), the Madras Bench disposed of the said OA as under:*

“24. The Applicant is said to have been working continuously for 25 years in HRRC Project. There may be several others like the Applicant who did not get the benefit when 20 supernumerary posts were created to accommodate only the applicants/respondents in OA No. 1332 of 2000 etc./WP Nos. 25490 to 25493 and 25574 to 25577 of 2002s in the Hon’ble Madras High Court. However, absorption of the Applicant and others similarly situated in regular posts may take considerable time with only 30% of the direct recruitment vacancies in future being earmarked for the HRRC staff. The Respondents should accordingly consider earmarking 2/3rd, if not 100% of the direct recruit vacancies for the HRRC staff, till all those who have put in more than 10 years of service in that capacity get adjusted in regular posts, and take further action accordingly.

25. With the above direction and observations, the OA stands disposed of. No order as to costs.”

24. xxx xxx xxx

25. In the circumstances and for the aforesaid reasons, the OA is allowed and the respondents are directed to extend the benefit of the Judgement in OA No. 1115/2009 of the Madras Bench to the applicants. The aforesaid direction shall be complied within a period of two months from the date of receipt of a copy of this order. No costs.”

3. The direction of Madras Bench of this Tribunal in OA No. 1115/2009 dated 26.08.2010 (Annexure CP-9), reads as under:-

"20. The claim of the applicants, ie Project Staff of HRRC before the Hon'ble High Court in WP 25490/02 dated 25.8.06 (Annexure A-6) has attained finality and the applicants in the present OA ie Project staff of NIMR are also claiming extension of similar benefit to them for regularization of their services. When the applicants are similarly situated persons of Project staff of HRRC and further when they are still continuing in service for the last 7 years even after rejection of their claim for regularization dated 18.12.2002 and thereafter when the respondents promised to regularise their services, and such promise is still pending without fulfilling and in such circumstances, the applicants are justified in seeking regularization of their services on par with the project staff of HRRC which attained finality. Hence the claim of the applicants is valid and justified.

21. In view of the above circumstances, the OA is disposed of with direction to the respondents to treat the claim of the applicants on par with Project Staff of HRRC which attained finality and pass orders within two months from the date of receipt of copy of this order.

22. This OA is disposed of accordingly. No order as to costs."

It is not in dispute that the directions of Madras Bench of this Tribunal in the aforesaid order has attained finality in view of dismissal of Writ Petition as well as by the SLP preferred by the respondents and the same have been complied by the respondents. Similarly, the W.P. (C) No. 5715/2017 filed by the Respondents' Deptt. against the order/judgement dated 08.12.2016 in the OA No. 2358/2015 has been dismissed by the Hon'ble High Court of Delhi vide order/judgement dated 11.07.2017 (Annexure CP-3).

4. In pursuance to the notice issued by this Tribunal, the respondents have filed the compliance affidavit and it is not disputed by learned counsel for parties that in compliance of directions of this Tribunal, the petitioners, herein, have been extended the benefit of regularization w.e.f. from their initial engagement. Their pay fixation has been done keeping in view of such regularization and the consequential benefits vis-à-vis grant of arrears of pay, the benefits of ACP/MACP have also been extended to petitioners.

5. In the case all the petitioners, who have retired on attaining the age of superannuation, pensionary benefits have also been granted to such petitioners. Of course, many of such benefits have been granted during the pendency of the present OA.

6. Now, the only dispute being raised by learned counsel for petitioners is that petitioner before Madras Bench in the aforesaid OA was granted the benefit of assessment promotion subsequent to the directions of this Tribunal at Madras Bench. However, the Petitioner

No. 1, herein, who is also similarly placed, has not been granted such benefits.

7. Learned counsel for respondents submits that such benefits of assessment promotion were neither the subject matter of the aforesaid OA before Madras Bench nor the direction of this Tribunal at Madras Bench in the aforesaid OA.

He submits that subsequent to getting the benefits of the judgement of the Madras bench, the concerned applicant in the aforesaid OA has preferred a representation to the concerned authority and the same was considered by respondents and after consideration of such representation, the benefit of assessment promotion was granted to that applicant.

8. In this background, the learned counsel for the respondents argues that it cannot be construed that the benefit of assessment promotion was given to the applicant before the Madras Bench, in pursuance of the directions of Madras Bench of this Tribunal in the OA.

9. We are satisfied with the submissions made by learned counsel for respondents. We are of the

considered view that the direction of this Tribunal in the aforesaid OA has substantially been complied with and there is no contumacious act on the part of the respondents.

10. In view of the aforesaid, the present CP is closed. Notices are discharged. However, the concerned petitioner, in the present CP shall be at liberty to agitate his grievances, if any survives, in accordance with law.

(Aradhana Johri)
Member (A)

(R.N. Singh)
Member (J)

/akshaya/