(2025) 08 CAT CK 0317

In the Central Administrative Tribunal, Cuttack Bench, Cuttack

Case No : Original Application No. 260, 00294 Of 2022

Rajranjan Damodar Rath APPELLANT

Vs

Union Of India & Ors. RESPONDENT

Date of Decision : 25-08-2025

Acts Referred:

Citation : (2025) 08 CAT CK 0317

Hon'ble Judges : Sudhi Ranjan Mishra, Member (J);Pramod Kumar Das, Member (A)

Bench : Division Bench

Advocate : S.K. Ojha, A.C. Deo

Final Decision : Allowed

Judgement

Pramod Kumar Das, Member (A)

1. The applicant, Sri Rajranjan Damodar Rath, then working as SSE/Works, S.E.Rly, Mancheswar, Bhubaneswar has filed this OA seeking direction to the respondents to restore his Grade Pay granted to him towards the 3rd financial upgradation under MACP and to refund the amount recovered from his salary consequence upon withdrawal of GP Rs. 5400/- by quashing the Office Order issued through Corrigendum dated 04.03.2021 and letters dated 08.11.2021 and 25.11.2021 for the same being illegal, arbitrary and opposed to the law. As per the facts pleaded and argued by the Ld. Counsel for the applicant, the facts and issues involved in the case in hand was also the facts and issues fallen in OA No. 1386/2013 (Javed Ahmed & Ors Vs UOI & Ors) filed before the CAT, PB, New Delhi and the CAT, PB, New Delhi rendered the decision on 01.09.2016 affirmatively in favour of those applicants. The said decision was challenged by the Railway Administration before the Hon'ble High Court of Delhi in Writ Petition No. W.P. (C) No. 10995/2016 and CM No. 43002/2016 and after being unsuccessful , they filed SLP(C) No. 011520-011521/2018 on 27.04.2018, which was subsequently, converted to C.A. No. 003129-003130/2019 on 15.03.2019 and was dismissed on 18.01.2024. It is also stated that similar set of employees,

as that of the applicant, approached before this Tribunal on similar cause of action in OA No. 263/2021 (Satyabrata Dhupal & Ors Vs UOI & Ors) and this Bench vide order dated 10.02.2023 granted the benefit to them in the light of the decision of the CAT, PB, New Delhi, referred to above. Hence, according to the Ld Counsel for the applicant, the applicant is also entitled to the same and similar benefits as that of the cases referred to above.

2. The respondents filed their counter stating therein that the decision of CAT, PB, New Delhi rendered in the case of Javed Ahmed (supra) on 01.09.2016 in OA No. 1386/2013 was against the Railway Board's guidelines. Hence, Railway Administration challenged the same before the Hon'ble High Court of New Delhi and after becoming unsuccessful, they approached before the Hon'ble Apex Court in Civil Appeal No. 3129/2019, which is still subjudice. It has also been stated that the case of the applicants in OA No. 263/2021 filed before this Bench was totally different from the case of the applicants in OA No. 1386/2013. It is stated that on going through the provision made in Para 13 of RBE No. 177/2003, it will be established that all increments of erstwhile Mistries not accommodated in higher post cannot be termed as merger and the said provision has also been clarified by the Board's letter dated 12.05.2015. Hence, respondents have prayed for dismissal of the OA.

3. We have examined the case in hand vis a vis the cases before the CAT, PB New Delhi in OA No. 1386/2013 upheld by the Hon'ble Apex Court in the CA No. 3129/2019 so also the matter earlier decided by this Bench in OA 263/2021. The relevant portion of the order dated 01.09.2016 of the CAT, PB, New Delhi in OA No. 1386/2013 is quoted hereunder:

"8. The only issue to be decided is whether the order dated 1.9.1993 para 13 is merger of pay scales or is merger with promotion. 13.2 (b) uses the expression "supervisors who do not get promoted to pay scale of Rs. 5,000-8000/-", whereas 13 (a) uses the expression of "all posts of Mistries should enbloc be upgraded to the posts of Junior Engineer Gr.II in the pay scale of Rs.5,000-8000 and merged with the respective cadre of Technical Supervisors with its spread effect in higher grades. Rs.5,500-9000, 6,500-10,500 & 7,450-11,500 as per the revised percentage distribution of posts prescribed for Technical Supervisors in these orders. However, para 13.2 is regarding procedure for fitment and, therefore, it cannot be treated as promotion as that would contradict 13 (a). Therefore, the scales were indeed merged. Once it is treated as merger, para 5 of MACP guidelines clearly establishes that all promotions from Mistries to JE (erstwhile 1400-2300) has to be ignored for the purpose of MACP. The OA is, therefore, allowed and respondents are directed to restore the first and second MACP with GP of Rs.4600 and 4800 from respective dates to the applicants.

9. We fix a time frame for the above exercise as 60 days from the date of receipt of a certified copy of this order. No costs."

4. The aforesaid order was challenged by the Railway Administration before the

Hon’ble High Court of Delhi and the Hon’ble High Court upheld the order by observing as under:

“7. In our opinion, the Tribunal rightly interpreted the said clauses. Mistries (now Supervisors) in the grade of Rs 4500-7000 were upgraded to the post of Junior Engineer in the pay scale of Rs.5000- 8000. It is a case of merger and unification of posts. Paragraph 13(b) states that erstwhile Mistries would be en bloc upgraded to the post of Junior Engineers. No doubt Paragraph 13(a) is subject to Paragraph 13.2, albeit the said clause relates to "Fitment". It was a regulatory mechanism. It does not negate or curtail the effect of Paragraph 13(a). Upgradation was mandated. Suitability was to be examined, not as per normal procedure but with reference to the service records and confidential reports. Further, retention in the lower grade of Rs. 4500- 7000 was personal to the incumbents who would not be placed in the scale/grade of Rs.5000-8000. This was a stop gap arrangement till retirement etc.. For all intents and purpose, the scale/grade of Rs. 5000-8000 was granted to the erstwhile Mistries (now Supervisors). The amalgamation and merger was complete. It is apparent that the posts of Supervisor, as such, had ceased to exist or …….

Thus, the Tribunal has rightly held that this was a case of upgradation and, consequently, merger of the pay scales. Thus grant of pay scale of Rs 5000-8000 to erstwhile Mistries (Supervisors) cannot be treated as promotion to the post of Junior Engineer. Consequently, the earlier promotion granted to the respondents from the post of Supervisors (Mistries) to the post of Junior Engineer was inconsequential. The two posts had identical pay scale, ie the pre- revised pay scale of Rs.5000-8000 or revised scale of grade pay of Rs.4200 in the pay band of Rs 9300-13800 This being the position, the respondents would be entitled to financial upgradation at the first Stage to-grade pay of Rs.4600/- and second stage to grade pay of Rs.4800/- as per the CCS (Revised Pay) Rules, 2008 read with the Modified Assured Career Progression Scheme,

The writ petition has no merit and is accordingly dismissed.”

5. The OA No. 263/2021 filed before this Bench, the respondents taken the stand that the facts and issues in OA No. 1386/2013 filed before CAT, PB, New Delhi is different and, therefore, the said decision has no application. In the said circumstances, after a thorough examination the matter in its entirety, this Bench disposed of the OA No. 263/2021 on 10.02.2023 with observations and directions as under:

“6. We find that the CAT, PB, New Delhi and the Hon’ble High Court of Delhi has vividly discussed the matter in great detail and came to the conclusion on principle that once the posts/scales were merged, it cannot be treated as promotion and in terms of para 5 of MACP all promotions from Mistries to JE (erstwhile 1400-2300) has to be ignored for the purpose of MACP. Thus, the stand of the respondents that since the applicants are from PWM/PWS which are excluded from para 13(a) but dealt with para 13(b) and 13.2 to 13.5 of RBE

No.177/2003 and para 13(a) is applicable to Works Wing of Civil Engineering Department and not for Permanent Way Wings the decision is not applicable, is found to be not correct. As a consequence, it is held that the applicants were rightly allowed the first and second financial upgradation on the recommendation of the screening committee vide order under Annexure-A/1, which ought not to have been altered without giving opportunity of being heard to the applicants in compliance with the principles of natural justice. However, in course of hearing, it has been brought to the notice of this Bench that the respondents had filed Special Leave to Appeal (C) No. 11520-11521/2018 challenging the order of the CAT, PB, New Delhi, which was upheld by the Hon'ble High Court of New Delhi and the Hon'ble Apex Court vide order dated 08.10.2018 stayed the proceedings of the contempt in C.P.No. 278/2018 filed by the applicants therein before the CAT, PB New Delhi and directed to list the matter in first week of December, 2018 for final disposal and the matter seems to be pending before the Hon'ble Apex Court for final adjudication. Since the matter is pending for final adjudication before the Hon'ble Apex Court, the restoration of the MACP granted to the applicants under A/1 series shall be subject to the final outcome of the Special Leave to Appeal (C) No. 11520-11521/2018. Insofar as recovery is concerned, the respondents are directed not to effect recovery in the event of submission of an undertaking by the applicants that they will not claim any equity and to refund the excess payment made in the event the Special Leave to Appeal (C) No. 11520-11521/2018 is allowed.

7. In the result, the OA stands allowed to the extent stated above. There shall be no order as to costs."

6. The respondents did not throw any light whether the order of this Bench dated 10.02.2023 in OA 243/2021 was challenged either in writ or in review, in absence of which, it is deemed that the aforesaid order of this Bench has attained its finality. In the said premises, the stand taken by the respondents that the facts and issues involved in OA No. 1386/2013 is different to OA No. 263/2021 is not appreciable and acceptable. However, it is not out of place to put on record that the case filed by the respondents challenging the order of CAT, PB, New Delhi was initially registered as SLP(C) No. 011520-011521/2018 on 27.04.2018, which was subsequently, converted to C.A. No. 003129-003130/2019 on 15.03.2019 and has been dismissed on 18.01.2024. The doctrine of judicial precedent is based on stare decisis. It means standing by previous decisions. Once a point of law has been decided in a particular case, that law must be applied in all future cases containing the same material facts. In view of the facts and law discussed above, we find no such material or ground to accept the stand taken by the respondents so as to differ from the view already taken as noted above. Hence, the order modifying/withdrawing the GP Rs. 5400/- granted to the applicant towards 3rd financial upgradation under MACP is hereby quashed. The recovery, if any, made from the salary of the applicant consequent upon the withdrawal/modification is to be refunded to the applicant and the applicant is entitled to the consequential benefits upon

restoration of GP Rs. 5400/-. The entire excise as directed above shall be completed within a period of 90 days from the date of receipt of a copy of this order.

7. In the result, the OA stands allowed by leaving the parties to bear their own costs.

