

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.14242 of 2019

Union of India & Ors.

.....

Petitioners

Mr. S.S. Kasyap, CGC

Vs.

Beta Jayalaxmi & Ors.

.....

Opposite Parties

Mr. N.R. Routray, Advocate

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

02.12.2022

Order No.

8

This matter is taken up through hybrid mode.

2. Heard Mr. S.S. Kasyap, learned Central government Counsel appearing for the petitioners and Mr. N.R. Routray, learned counsel appearing for the opposite parties no.1 to 3.

3. The Union of India and its functionaries have filed this writ petition challenging the order dated 08.03.2019 passed in O.A. No.612 of 2011, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack, has observed that since the contention that the deceased employee had not shouldered higher responsibility during the period of his reversion is not proved on record and since the said reversion order was cancelled, vide order dated 14.03.2012, without any change of his posting, the provision for notional benefit as per the Railway Board circular dated 25.05.2003 will not apply in this case and the deceased employee will be entitled for the arrear differential salary from 15.02.2005 when he was regularized as Driver Grade-III till his restoration to the post of MV Driver Grade-1, vide order dated 14.03.2012. Accordingly, the Tribunal directed the petitioners to pay the arrear differential salary for the above period to opposite parties no.1 to 3

as per the rules within three months from the receipt of the order.

4. Mr. N.R. Routray, learned counsel appearing for the opposite parties no.1 to 3 contended that similar matter had come up for consideration before this Court in OJC Nos.5477 of 2002 and 5459 of 2002 (*Union of India & Ors. v. Central Administrative Tribunal, Cuttack Bench & Ors in both the cases*), which have been dismissed, vide order dated 07.03.2006. Thereby, since the claim of opposite parties no.1 to 3 is covered by the judgment passed by this Court in the aforesaid case, they should be extended the benefit by dismissing the writ petition.

5. Having heard learned counsel appearing for the parties and after going through the records, this Court finds that since the claim of opposite parties no.1 to 3 is covered by the judgment dated 07.03.2006 passed by this Court in OJC Nos.5477 of 2002 and 5459 of 2002, this writ petition preferred by the Union of India cannot be sustained in the eye of law and the same is hereby dismissed. Accordingly, opposite parties no.1 to 3 are entitled to get the benefit in terms of the order dated 08.03.2019 passed by the Tribunal in O.A. No.612 of 2011 and the same shall be granted within a period of three months from the date of production/communication of this order.

6. With the above observation and direction, the writ petition stands disposed of.

7. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(B.P. SATAPATHY)
JUDGE

