

CENTRAL ADMINISRATIVE TRIBUNAL GUWAHATI BENCH

Review Application No. 040/00006/2020
(In OA No. 040/00323/2016)

Date of order: This the 12th day of June, 2020

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER



1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Railways, Rail Bhawan
New Delhi – 110001.
2. The Member Engineering (ME)
Railway Board, 1, Raisina Road
New Delhi – 110001.
3. The Director General
Railway Health Services
Railway Board, 1, Raisina Road
New Delhi – 110001.
4. The Joint Director (Health)
Railway Health Services
Railway Board, 1, Raisina Road
New Delhi – 110001.
5. The General Manager
North East Frontier Railway
Maligaon, Guwahati – 781011.
6. The Principal Chief Engineer
North East Frontier Railway
Maligaon, Guwahati – 781011.
7. The General Manager (P)
North East Frontier Railway
Maligaon, Guwahati – 781011.

8. The Chief Medical Director
North East Frontier Railway
Maligaon, Guwahati – 781011.

...Review Petitioners

By Advocate: Sri H.K. Das, Railway Advocate

-Versus-

Shri Manas Ranjan Mohapatro
Son of Sri Uma Charan Mohapatro
Resident of Quarter No. 168/B
Central Gota Nagar, Maligaon
Guwahati – 781011
District – Kamrup (M), Assam.



...Opposite party/Applicant

By Advocates: Sri M.K. Choudhury, Sr. Advocate

ORDER (IN CIRCULATION)

NEKKHOMANG NEIHSIAL, MEMBER (A):-

This R.A. No. 040/00006/2020 has been filed by the Union of India to review the order passed by this Tribunal on 06.03.2020 in O.A. No. 040/00323/2016. Operative portion of the order passed by this Tribunal, as quoted in the Review Application, is as under:-

“10. Keeping in view of the above, we are of the considered view that the case of the applicant should be appropriately considered by the respondent authorities for the post where he could be suitably accommodated in the promoted post of Group B as recommended by the Chief Medical Officer based on input of PC/MLG dated 26.02.2015. Accordingly, the impugned letters dated 06.06.2016 and 20.07.2016 are hereby set aside and quashed. The respondent authorities are hereby directed to re-consider the case of the applicant as indicated above. This exercise may be completed by the respondent authorities within a period of three months from the date of receipt of this order.

12. O.A. stands disposed of to the above extent. There shall be no order as to costs.”



2. The ground for filing of Review Application is that review petitioners/respondents in their written statement at para 3 has raised preliminary objection against the maintainability of the O.A. No. 040/00323/2016 on the ground that there is no legal right available for the applicant as relaxation cannot be claimed as a matter of right.

3. In this R.A., the review petitioners also brought out the decision of Co-ordinate Bench of CAT, Cuttack Bench in **O.A. No. 235 of 1999 (Pravat Bihari Mohapatra Vs. Union of India and Ors.)** and stated that said case was not relevant and applicable in the present case.

They also stated that rule have changed and reliance placed by the Co-ordinate Bench in the case of **Pravat Bihari Mohapatra Vs. Union of India and Ors.** was not only decided on separate set of rules but also before amendment.



4. We have considered the Review Application once again. It is observed that the case of **Pravat Bihari Mohapatra Vs. Union of India** had already taken into account **at para 9** of its order dated 06.03.2020 where allowing the said OA. As could be seen from the operative portion of the order of this Tribunal dated 06.03.2020, it is seen that the Tribunal has not taken away the discretionary power of the competent authority in deciding the case of the applicant.

5. Keeping in view of the scope for accommodating the applicant in some of the assignments as recommended by the Chief Medical Officer, North East Railway and also keeping in view of the fact that the applicant still has residual service of 28 years, the respondent authorities/petitioners were directed to re-consider the case of the applicant. We

therefore, found that there is no merit in this Review Application. Accordingly, same is hereby rejected and dismissed.

6. There shall be no order as to costs.



PB

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)