

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

O.A. No. 260/00253 OF 2020

CORAM:

**THE HON'BLE MR. SWARUP KUMAR MISHRA, MEMBER(J)
THE HON'BLE MR. T. JACOB, MEMBER (ADMN.)**

JANAKAR PATRA, aged about 59 years, S/o. Late Banambar Patra, a permanent resident of At-Gadakan, Po-Mancheswar (R.S), Bhubaneswsar-17, Dist. Khurda, Senior Clerk in the office of the Workshop Personnel Officer, Mancheswar, Carriage Repair Workshop, Mancheswar PO-Manchswar, Bhubaneswar, Dist. Khurda.

.....Applicant

Through Legal practitioner :In person.

-Versus-

1. Union of India represented through its Chairman of Railway Board, Rail Bhawan, New Delhi-110 001.
2. General Manager, East Coast Railways, Rail Sadan, Chandrasekharpur, Bhubaneswsar-17, Khurda Odisha, PIN-751 017.
3. Chief Vigilance Officer, Office of the General Manager (Vigilance), Rail Sadan, Chandrasekharpur, Bhubaneswar-17, Khurda, Odisha, PIN-751 017.
4. Chief Personnel Officer, Rail Sadan, Chandrasekharpur, Bhubaneswar, PIN-751 017.
5. Chief Workshop Manager, Mancheswar Carriage Repair Workshop, Manchesar, PO. Manchaswar, Bhubaneswar, Dist. Khurda, PIN-751 017.
6. Workshop Personnel Officer, Carriage Repair Workshop Mancheswar, Bhubaneswar, Dist. Khurda, PIN-751 017.
7. Deputy Chief Electrical Engineer, Carriage Repair Workshop Manchesar, Bhubaneswar, Dist. Khurda, PIN-751 017.
8. Arbinda Barik, Office Superintendent, Personnel Branch, Carriage Repair Workshop, Mancheswar, Bhubaneswar, Dist. Khurda, PIN-751 017.
9. Manoj Kumar Barisal, Office Superintendent, Personnel Branch, Carriage Repair Works, Mancheswar, Bhubaneswar, Dist. Khurda, PIN-751 017.
10. Gouranga Charan Rout, Office Superintendent Personnel Branch, Carriage Repair Workshop, Mancheswar, Bhubanesar, Dist. Khurda, PIN-751 017.

11.Jyotshna Das/Ray, Office Superintendent Personnel Branch, Carriage Repair Workshop, Mancheswar, Bhubaneswar, Dist. Khurda, IN-751 017.

12.P.Routray, Office Superintendent under the office of Chief Workshop Manager, CRW/Mancheswar, Bhubaneswar, Dist. Khurda, PIN-751 017.

.....Respondents

Through Legal practitioner :Mr. T.Rath, Counsel

Date of reserve: 18.03.2021

Date of order:12.05.2021

O R D E R

MR.SWARUP KUMAR MISHRA, MEMJBER (JUDL.)

The Applicant has filed this O.A seeking the following reliefs.

“(i) To direct the respondents to antedate his promotion to the date when the respondent Sl.No.8 (Arabind Barik was promoted to the rank of Senior Clerk on 31.08.2002;

(ii) To direct the respondents to declare the applicant to be senior to the respondent Sl.No.8 (Arabind Barik) in the rank of Jr. Clerk and Senior Clerk;

(iii) To pass appropriate orders directing the Respondents-Railways to correct the seniority position of the applicant placing him above Respondent Sl.No.8 (Arabind Barik) and to extend all other service and consequential benefits to which he is entitled and;

(iv) To quash the order dated 27.05.2013, 28.05.2013 (series to the extend it relates to repatriating the applicant back to Electrical Department;

(v) Consequently to quash the order dated 28.05.2013 in relieve the applicant from personnel Department;

(vi) To delete with effect from 01.01.1986 and was promoted to the post of Khalasi Helper on ad hoc basis and in places of 08.03.1991 the date 20.11.1984 may please be substituted;

(vii) To pass appropriate orders directing the respondents-Railways to be as junior clerk with effect from 01.01.1988 in personal department that the respondents-Railways has been regularized on 01.01.1988 P.K.Routray and 11 others vide order even dated 11.07.1993, Annexure-A/13, P/76;

(viii) To pass such further order/orders as are deemed just and proper in the facts and circumstances o the case and allow this OA with costs;

2. Respondents have filed their counter opposing the very maintainability of this OA as the facts, grounds and prayer made in this OA were same and similar to OA Nos. 746 of 2019 and MA No. 262 of 2020 (arising out of OA No. 746 of 2019) and RA No. 131/2020 which were considered by this Bench and dismissed. The Applicant has once again filed this OA by reiterating the same and similar facts, grounds with same prayer and thus, this OA being hit by constructive *res judicata* and delay and laches is also liable to be dismissed.

3. We find that the applicant in this OA has sought more than one relief which are not based on single cause of action and in view of the specific stand taken by the Respondents that this OA is not maintainable being hit by constructive *res judicata* so also delay and laches, the applicant was impressed to take hold of legal aid services so that counsel can be engaged on his behalf but he straightaway refused to take the help of any counsel and has sought to conduct his own case.

4. Heard the Applicant in person and Mr. T.Rath, learned counsel appearing for the Respondents and perused the material placed on record quo the records of OA No. 746 of 2019 earlier filed by the Applicant and disposed of on 13/03/2020 and find that the facts, grounds and relief sought in this OA were also the subject matter of consideration in his earlier OA and after taking into consideration all aspects of the matter the said OA was dismissed on merit. The principles of *res judicata* are of universal application as it is based on two age old principles, namely, '*interest reipublicae ut sit finis litium*' which means that it is in the interest of the State that there should be an end to litigation and the other principle is '*nemo debet bis vexari si constat curiae quod sit pro una et eadem causa*' meaning thereby that no one ought to be vexed twice in a litigation if it appears to the Court that it is for one and the same cause. This doctrine of *res judicata* is common to all civilized system of jurisprudence to the extent that a judgment after a proper trial by a Court of competent jurisdiction should be regarded as final and conclusive determination of the questions litigated and should forever set the controversy at rest. The Hon'ble Apex Court in the case of **Satyadhyayan Ghosal & Ors. v. Smt. Deorajin Debi & Anr.**, AIR 1960 SC 941 explained the scope of principle of *res-judicata* observing as under:

“7. The principle of *res judicata* is based on the need of giving a finality to judicial decisions. What it says is that once a *res judicata*, it shall not be adjudged again. Primarily it applies as between past litigation and future litigation, When a matter -

whether on a question of fact or a question of law - has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies, neither party will be allowed in a future suit or proceeding between the same parties to canvass the matter again. This principle of res judicata is embodied in relation to suits in S. 11 of the Code of Civil Procedure; but even where S. 11 does not apply, the principle of res judicata has been applied by courts for the purpose of achieving finality in litigation.”

Further in the case of **Hope Plantations Ltd. v. Taluk Land Board, Peermade & Anr.**, (1999) 5 SCC 590, the Hon’ble Apex Court has explained the scope of finality of the judgment of this Court observing as under:

“One important consideration of public policy is that the decision pronounced by courts of competent jurisdiction should be final, unless they are modified or reversed by the appellate authority and other principle that no one should be made to face the same kind of litigation twice ever because such a procedure should be contrary to consideration of fair play and justice. Rule of res judicata prevents the parties to a judicial determination from litigating the same question over again even though the determination may even be demonstratedly wrong. When the proceedings have attained finality, parties are bound by the judgment and are estopped from questioning it.”

5. In view of the facts and law stated above, we find no reason to go to the merit of the matter and is dismissed for being hit by constructive resjudicata as also specific provision under Rule 10 of the CAT (Procedure) Rules, 1987. No costs.

(T. JACOB)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)

csk