

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

O.A. No.436 of 2017

O.A. No. 629 of 2017

CORAM: HON'BLE MR. SWARUP KUMAR MISHRA, MEMBER(J)

HON'BLE MR. T. JACOB, MEMBER(A)

B. Ramakrishna, aged about 56 years, S/o B.S.Nayayan, At-Qr. No. 173/2, R.E.New Colony, Vijayanagaram, Dist-Vijayanagaram (Andhra Pradesh), at present residing at Jatni, At/PO-Jatni, Dist-Khurda.

..... Applicant.

VERSUS

1. Union of India, represented by its General Manager, East Coast Railway, At-Kali Vihar, PO-Chandrasekharapur, Bhubaneswar, Dist-Khurda.
2. Senior Divisional Operations Manager (G), East Coast Railway, Waltair, Dist-Vishakhapatnam (Andhra Pradesh).
3. Divisional Operations Manager (M), East Coast Railway, Waltair, Dist-Vishakhapatnam (Andhra Pradesh).
4. Senior DPO, East Coast Railway, Waltair, Dist-Vishakhapatnam (Andhra Pradesh).

..... Respondents.

For the applicant : Mr. S.B. Jena, counsel

For the respondents: Mr. T. Rath, counsel

Heard & reserved on : 10.03.2021

Order on : 22.04.2021

O R D E R

Per Mr. Swarup Kumar Mishra, Member (J)

Both the cases are disposed of by this common order since the applicant in both the cases are same and it is convenient to dispose of both the cases by a common order.

2. The applicant has filed this Original Application Nos.436/17 & 629/17 under Section 19 of the A.T. Act, 1985, seeking for the following reliefs:-

O.A. No.436/2017

“Under the aforesaid facts and circumstances of the case, it is therefore prayed that this Hon’ble Tribunal may graciously be pleased to quash the 2nd part of the order of punishment issued vide office order dated 10.05.2017 under Annexure-A/8 and office order dated 18.05.2017 under Annexure-A/9.

And to quash the order of Revisional authority order dated 13.07.2018 under Annexure-A/10;

And further be pleased to direct the Respondents to grant all the service benefit and arrear salary with effect from 05.07.2012 till his joining and other consequential service benefit.

Or pass any other order/orders or direction/directions as this Hon’ble Tribunal may think deem fit and proper;

And allow this Original application with cost. ”

O.A. No.629/2017

“Under the aforesaid facts and circumstances of the case, it is therefore prayed that this Hon’ble Tribunal may graciously be pleased to quash the letter dated 21.09.2017 and direct the opposite parties to allow the petitioner to accept his voluntary retirement w.e.f. date of application i.e., 30.06.2017.

Or pass any other order/orders or direction/directions as this Hon’ble Tribunal may think deem fit and proper;

And allow this Original application with cost. ”

3. In O.A. 436 of 2017, the applicant while working as Senior Token Porter under the Station Manager, Vijayanagaram, has faced one departmental proceeding in which the Disciplinary Authority had passed the order of punishment for removal from service. The Appellate Authority modified the said order vide Annexure-A/9 inter alia mentioning that the period from 05.02.2012 to 16.12.2016 is to be treated as dies non. The applicant had preferred revision and the Revisionary Authority by its order dated 13.07.2018 modified the sentence by

passing the punishment of reducing his present pay to lower by two stages from pay Rs. 9700/- to pay Rs. 9130/- for a period of one year with NCE. Ld. Counsel for the applicant had inter alia submitted that in the absence of any separate show cause notice sent to the applicant the period from 05.02.2012 to 16.12.2016 could not have been treated as dies non as it has adverse impact on the pension amount payable to the applicant.

3. Ld. Counsel for the respondents had inter alia submitted that there is no illegality or irregularity in conducting the departmental proceeding against the applicant and passing the order for dies non and the modified order of punishment. He had further submitted that this Tribunal has no territorial jurisdiction to entertain this case.

4. In O.A. No.629 of 2017 the applicant had prayed for quashing the letter dated 21.09.2017 and directing the respondents to allow the petitioner to accept his voluntary retirement w.e.f his date of application i.e. 30.06.2017. It was submitted by Ld. Counsel for the applicant that in case the prayer made by the applicant in O.A. No.436 of 2017 to treat this period from 05.02.2012 to 16.02.2016 as duty is allowed then the son of the applicant will be entitled for appointment under Largess Scheme.

5. Ld. Counsel for the respondents in O.A. 629/17 inter alia submitted that in view of the recent decision of the Hon'ble Supreme Court given on 29.01.2021 in W.P. (C) No. 78 of 2021 (Manjit & Ors. V/s UOI & Anr.), the applicant is not entitled to the relief as sought for in O.A. No.629/17. It has been held by the Hon'ble Supreme Court that **"..... This Would be fundamentally at odds with Article 16 of the Constitution. The Union government has with justification discontinued the scheme. The petitioners can claim neither a**

vested right nor a legitimate expectation under such a Scheme. All claims based on the Scheme must now be closed.”

6. It was submitted by Ld. Counsel for the respondents in both the cases that this Tribunal has no territorial jurisdiction to entertain both the cases since the applicant is working at Waltair under the Respondents' Department and had never worked in the State of Odisha. In this regard, Ld. Counsel for the applicant had submitted that the earlier O.A. i.e., O. No.519/12 filed by the applicant before this Tribunal has been allowed on 16.03.2017 and therefore, this Tribunal has jurisdiction to entertain this O.A.

7. Ld. Counsel for the respondents submitted that at the time of earlier O.A. No.519/12 filed by the applicant, he was removed from service and thereafter, the applicant has been reinstated in service and worked at Waltair. It is further submitted by Ld. Counsel for the respondents that in both the cases at no point of time the applicant had ever served in the State of Odisha. In this regard, Ld. Counsel for the respondents drawn the attention of this Tribunal to the CAT Act and Rules placed there under. Ld. Counsel for the respondents had also cited the decision of the Hon'ble CAT Jaipur Bench passed in O.A. No.47 of 2017 on 03.01.2019 on the point of territorial jurisdiction.

8. Ld. Counsel for the applicant submitted that since the respondents department i.e. Vizag comes under East Coast Railway, therefore, this Tribunal has jurisdiction to entertain this matter. We are unable to accept the said submission as per the above decisions of Hon'ble Apex Court and Hon'ble CAT, Jaipur Bench.

9. Respondents have filed their counter .

10. This Tribunal had gone through the record. It is seen that the office of the respondents are not situated within the territorial jurisdiction of the Tribunal i.e., the CAT Cuttack Bench. Neither the whole nor part of the cause of action has arose within the territorial jurisdiction of this Bench. The applicant had never ordinarily resided within the territorial jurisdiction of this Bench. Accordingly, this Tribunal finds that this Tribunal has no territorial jurisdiction to entertain both these O.As. The citations as relied upon by the applicant in both the cases with regard to the stand of the applicant that this Bench has got territorial jurisdiction to entertain this matter is not applicable to this present case. Since we have found that this Tribunal has no jurisdiction, therefore this Tribunal has not gone into the merit of this case and hence, both these OAs along with paper books be transmitted to CAT Hyderabad Bench which comes under its territorial jurisdiction. The applicant may move the said Bench by making necessary prayer to the said Bench if so advised.

Copy of this order be supplied to Ld. Counsels for both sides and also to the applicant.

(T. ACOB)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)

K.B