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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.8 of 1987.

Date of decision : April 12,1988.

M.A.Mannan, Guard 'A' (Special)
s/o late M.A.Hamid, Divisional
Rly, Manager's Office, S.E.Railway,
At-Khurda Road, P.O.Jatni, Dist.Puri ...

Applicant.

Versus

1. Union of India through the General
Manager, S.E.Railway, Garden Reach,
Calcutta-43. West Bengal.
2. Divisional Railway Manager,
S.E.Railway, At-Khurda Road, P.O.
Jatni, Dist.Puri.
3. Divisional Operating Superintendent,
S.E.Railway, Khurda Road, P.O.Jatni,
Dist.Puri. ...

Respondents.

For the applicant ... Mr.G.A.R.Dora, Advocate.

For the respondents ... Mr.Ashok Mohanty,
Standing Counsel (Railways).

C O R A M:

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.K.P.ACHARYA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be allowed to
see the judgment ? Yes.
 2. To be referred to the Reporters or not ? No
 3. Whether Their Lordships wish to see the fair copy
of the judgment ? Yes.
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J U D G M E N T

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the claim of the applicant is to grant him all emoluments with effect from 30th October, 1985 and his reinstatement should take effect from 30th October, 1985.

2. Shortly stated, the case of the applicant is that he was a Guard 'A' (Special) stationed at Khurda Road working under the South Eastern Railway. The applicant was prematurely retired in public interest with effect from 30th October, 1985. The matter was carried in appeal and the appellate review committee held that the applicant should be reinstated and hence orders passed prematurely retiring the applicant from service in public interest was negatived. Though the order of premature retirement was set aside, yet reinstatement was given effect from 13th June, 1986 for which the applicant feels aggrieved and has filed this application before this Bench with a prayer for interference.

3. In their counter, the respondents maintained that no illegality has been committed in regard to the reinstatement of the applicant with effect from 13th June, 1986 and therefore, the case being devoid of merit, is liable to be dismissed.

4. We have heard Mr. G.A.R. Dora, learned counsel for the applicant and Mr. Ashok Mohanty, learned Standing Counsel for the Railway Administration at some length. Mr. Dora submitted that once the order of premature retirement has been set aside, it should have been deemed to have effect from the

date the applicant was prematurely retired from service. It was not open to the departmental authorities to reinstate the applicant on a later date. On the other hand, Mr. Mohanty, vehemently submitted that the applicant should deem himself fortunate that the review committee on appeal had set aside the order of premature retirement and therefore, the applicant should not have any grievance at present especially when the second review committee had ordered that the period between 30th October, 1985 to 13th June, 1986 should be treated as 'dies non' vide Annexure-A. We have given our anxious consideration to the arguments advanced at the Bar and we feel that the applicant is fortunate to have been reinstated but at the same time if law entitles him to certain rights, the applicant cannot be deprived of those rights. Once the order of premature retirement has been set aside it would be deemed as if the applicant was in active service from the date on which the impugned order was passed. There is no further scope for the second review committee to say that a particular period should be treated as 'dies non'. In such circumstances, we are unable to agree with learned Standing Counsel for the Railway Administration. For the ends of justice we find that the applicant should be deemed to have been reinstated with effect from 30th October, 1985 and since then he would be entitled to all his emoluments minus the three months' pay which he has already received along with the notice for premature retirement. The arrear emoluments be calculated and paid to the applicant within three months from the date of receipt of a copy of this judgment.

for,

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5. Thus, this application stands allowed leaving the parties to bear their own costs.

[Signature]
.....12.4.88.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

9 agree -

[Signature]
.....12.4.88.....
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
April 12, 1988/S. Sarangi.