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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No. 295 of 1988.

Date of decision : December 23, 1988.

Sri S.K. Swain @ Susanta Kumar Swain,
T.T.E., Khurda Division, South Eastern Railway,
At present-Quarters No.F4/3, Block-4,
Museum Colony, Bhubaneswar-751014.

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Applicant.

Versus

1. Union of India, represented by the General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. Chief Commercial Superintendent, South Eastern Railway, 14, Strand Road, Calcutta.
3. Divisional Railway Manager, South Eastern Railway, Khurda Road, Dist-Buri.
4. Divisional Commercial Superintendent, South Eastern Railway, Khurda Road, P.O.Jatni, Dist.Puri.

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Respondents.

For the applicant ... M/s. Deepak Misra,
R.N.Naik, Advocates.

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)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? **N**
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to pass appropriate orders directing Respondents 3 and 4 to allot duty to the applicant under Khurda Road Division with all consequential benefits and to direct Respondents 3 and 4 to clear up the dues of the applicant from 1.11.1985 till date.

2. Shortly stated, the case of the applicant is that he was working as a Travelling Ticket Examiner under Khurda Road Division posted at Khurda Road. On 9.10.1985 the applicant is said to have been nominated to the Headquarters squad at Calcutta. Though such nomination is said to have been passed by the competent authority yet no relieve orders having been passed or delivered to the applicant, the applicant did not move to Calcutta but time to time was reporting for duty at Khurda Road and surprisingly the applicant was not allotted any duty. Till today he is going without performing any duty because of no specific orders having been issued by the competent authority. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents maintained that the applicant was nominated to work under the Headquarters squad at Calcutta and he was accordingly informed and was directed to report for duty to A.C.O., T.C., Calcutta for further orders vide Annexure-A. The applicant wilfully and intentionally did not proceed to Calcutta and has filed this frivolous application which should not be allowed in any circumstances.

4. We have heard Mr. R. N. Naik, learned counsel for the applicant and Mr. Ashok Mohanty, learned Standing Counsel appearing for the Railway Administration at some length. It was vehemently urged by Mr. Naik that the applicant never wilfully absented from duty and he did not move to Calcutta because no order was received by him in token of having been relieved from duty. Therefore, in such circumstances, the applicant had no other option but to remain at Khurda Road and was from time to time reporting to duty which was not accepted by the competent authority. On the other hand, Mr. Ashok Mohanty, learned Standing Counsel appearing for the Railway Administration invited our attention to Annexures A & B filed along with the counter. Annexure-B is an important document. From Annexure-B we find that the Chief Ticket Inspector, South Eastern Railway, Khurda Road has intimated the applicant that he has been nominated to work in CCS Squad with immediate effect ^{vide} Shri B. Sahu working in CCS squad and the applicant was further informed in the same letter that he should submit his monthly returns and Daily Journals upto date immediately and report to ACO, TC Calcutta for further orders. We had a doubt in our mind as to whether a copy of this order was received by the applicant. From the endorsement we find that he has signed in token of having received a copy of this order and this was admitted before us by the applicant. In such circumstances, we have least iota of doubt in our mind to hold that the applicant

to hold that the applicant had been relieved from the post which he was holding and such relief order had been served on the applicant which he has received. In view of the aforesaid facts and circumstances, we find no justification on the part of the applicant not to have carried out the orders of the competent authority as contained in Annexures-A & B. However, we feel inclined to take a compassionate view over the applicant and therefore, we direct that the applicant should immediately report to ACO, TC, Calcutta for working in CCS squad on or before 15th January, 1989 and we further direct that the competent authority should accept his joining report and the applicant should be allotted duty and it is further directed that the competent authority should compute the leave due to the applicant and such leave of all nature as per the Rules should be computed and should be granted in favour of the applicant and for the uncovered period of leave, if any, extraordinary leave should be granted not entitling the applicant any financial benefits. The uncovered period for which the applicant has no leave to his credit, should not be taken as a break in service.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

Lalit Dutt
23.12.88
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Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

I agree.

M.S. 23.12.88
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Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 23, 1988/S.Sarangi.