

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.40 of 1988.

Date of decision : December 23,1988.

Sri J.P.Sharma, T.T.E., South Eastern
Railway, Headquarters at Cuttack. ... Applicant.

Versus

1. Union of India, represented by the
General Manager, South Eastern Railway,
Garden Reach, Calcutta.
2. Divisional Railway Manager,
South Eastern Railway, Khurda Road,
Town/Munsifi-Khudra, Dist- Puri.
3. Divisional Personnel Officer,
South Eastern Railway, Khurda Road,
Town/Munsifi-Khurda, Dist-Puri.
4. Shri G.C.Pattanaik, son of late Chaitanya
Pattanaik, of Bangali Sahi, P.S.Purighat,
Dist. Cuttack. ... Respondents.

For the applicant ... M/s.A.C.Pradhan,
B.B.Pattnaik, Advocates.

For the respondents 1 to 3 -- M/s.B.Pal,
O.N.Ghosh, Advocates.

For the respondent No.4 ... M/s.Akhilendra Mohapatra
P.Ch.Rout,

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.
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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 applicant prays to quash the revised seniority list of Sr.T.C./T.T.Es and the Respondent No.4 should be directed to produce the original transfer order ^{of Respondent No.4} and furthermore, Respondent No.4 should be placed against serial no.65 instead of Serial No.2(A).

2. Shortly stated, the case of the applicant is that the applicant is presently working as Travelling Ticket Examiner under the South Eastern Railway within Khurda Road Division and had been posted at Cuttack. On 17.8.1981 the authorities of the Railway Administration had published a provisional seniority list bearing No.Ps/70/Com/TRE/Sr.T.C./Senior dt. 17.8.1981 in which the name of the applicant was noted against serial No.7. Later the applicant found from the revised seniority list that Shri G.C.Pattanaik, Respondent No.4 has been placed against Serial No.2(a) by superseding 63 persons including the applicant which resulted from the judgment passed by this Bench in T.A.372 of 1986 disposed of on 12th January, 1987. Hence, this application has been filed with the aforesaid prayer.

3. In their counter, the respondents 1 to 3 maintained that the revised seniority list dated 5.10.1987 which is sought to be quashed has been prepared by the authorities as a result of a judgment passed in T.A.372 of 1986 on 12.1.1987 by this Tribunal and Respondent Nos.1 to 3 had no other option but to prepare a revised seniority list

according to the directions of the Tribunal, Therefore,
Per.

there being no merit in this case, the petition is liable to be dismissed.

4. Before we deal with the contentions put forward before this Bench by respective parties, it is worthwhile to mention that T.A.372 of 1986 was heard and disposed of on 12.1.1987. In the said case, the petitioner Shri G.C.Pattnaik (Respondent No.4 in the present case) had been initially appointed under the Eastern Railway as an Assistant Trains Clerk at Moghul-Sarai. For a certain period Shri Pattnaik worked as such at Moghul-sarai and in course of time the Eastern Railway bifurcated in the year 1955 into two Railway zones namely South Eastern Railway and Eastern Railway. After bifurcation, Shri G.C.Pattanaik (Respondent No.4 in the present case) continued in the Eastern Railway till 30.10.1961 and thereafter the said Shri G.C.Patnaik was transferred to South Eastern Railway as a Ticket Collector being posted at Khurda Road. According to Shri Pattanaik, Assistant Trains Clerk stands in the same cadre like that of Ticket Collector. The case of Shri G.C.Pattnaik in T.A.372 of 1986 was that he was transferred on administrative grounds. After Shri Patnaik joined the post of Ticket Collector, the seniority of the applicant was taken down below without taking into consideration the services rendered by Shri G.C.Pattnaik at Maghul-sarai as Assistant Trains Clerk. Being aggrieved by this action of the Railway Administration an application under article 226 of the Constitution was filed before the Hon'ble High Court of Orissa with a prayer to command the respondents to compute the seniority of the petitioner from the date of his

appointment as Assistant Trains Clerk and posted at Moghul-Sarai and it was further prayed that fixation of seniority of the petitioner down below ~~xx~~ others should be quashed and the seniority should be accordingly revised from the date of his joining . In the said judgment we had discussed in extenso the provisions contained in Rule 311 of the Manual, and we categorically held that the Railway Administration could not prove the fact that Shri G.C.Pattnaik had been transferred on his own request and hence we held that the transfer was effected on administrative grounds which comes within Rule 311 of the Manual. Hence, in the said judgment we directed as follows :

" Therefore, there cannot be any dispute that the seniority of the petitioner has to be regulated or fixed taking into consideration the date of appointment to the grade and we do further direct that the seniority of the petitioner be accordingly computed and his seniority be refixed taking into account the previous service of the petitioner at Moghul-Sarai under the Eastern Railway xx "

With this background we have heard Mr.A.C.Pradhan, learned counsel for the applicant and Mr.B.Pal, learned Senior Standing Counsel appearing for the Railway Administration and Mr.Bijayananda Mohanty, learned counsel appearing for Respondent No.4 at some length. It was contended by the applicant in the present case that the order passed by the competent authority transferring respondent No.4, Shri G.C.Pattnaik from Moghul-Sarai to Khurda Road was not on administrative grounds but it was on his own request and therefore, the action of the competent authority in placing Shri Patnaik against serial No.2(a) of the seniority list

is illegal, unjust and improper. Therefore, it was contended by Mr. Pradhan that the revised seniority list should be quashed. We had called upon the applicant in this case to substantiate his plea that Shri G.C. Patnaik was transferred on his own request. The applicant failed to substantiate his case by filing a copy of the order of transfer. On the contrary, Mr. Bijayananda Mohanty appearing for Respondent No. 4 filed a copy of the order received by Shri G.C. Patnaik dated 29.10.61 which runs thus :

" To

Sri G.C. Patnaik
ATC/Mgs.

You are spared on transfer to S.E. Rly, w.e.f. 30.10.61 as per the order of D.S., DMR enclosed herewith. You are hereby directed to report to the Supdt., Staff Training School, Sini on 1.11.61 positively.

Sd. Illegible
29.10.
Station Superintendent
Mughal Sarai."

This document has been filed in T.A. 372 of 1986 which is also connected with this case. From the above quoted order nothing appears that the transfer was effected on the request of Shri G.C. Patnaik. On the contrary, from the language employed in the communication quoted above, it appears to us that the transfer of Shri Patnaik was not on his own request but in usual course on administrative grounds. Therefore, we reaffirm our views expressed in our judgment passed in T.A. 372 of 1986.



5. In the circumstances, we find no merit in this case which stands dismissed leaving the parties to bear their own costs.

[Signature]
23/12/88
.....
Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

9 agree.

[Signature]
23.12.88
.....
Vice-Chairman

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