

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NOS.160/98 & 223/98
Cuttack, this the 14th day of February, 2002.

Abhiram patra.

....

Applicants

-Versus-

Union of India & Ors.

....

Respondents.

FOR INSTRUCTIONS.

1. Whether it be referred to the reporters or not? *NO*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *NO*

Manoranjan Mohanty
(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)

S.A.T. Rizvi
(S.A.T. RIZVI)
MEMBER (ADMN.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.NO. 150 of 1998
O.A.No.223 of 1998

Cuttack, this the 14th day of February, 2002.

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C O R A M:

THE HONOURABLE MR. S.A.T.RIZVI, MEMBER (ADMN.)
A N D

THE HONOURABLE MR.MANORANJAN MOHANTY, MEMBER(JUDL.) .

...

O.A. NO. 160/1998.

Abhiram patra, Aged about 42 yrs.,
S/o .Divyasingh patra, At: Batel,
P.O.Motari, Via. Delanga, Dist.Puri.

... Applicant.

By legal practitioner: M/s .B.N.Nayak,
B.B.Mohapatra,
Advocates .

-Versus-

1. Union of India represented through its General Manager, South Eastern Railway, Garden Reach, Calcutta-43, West Bengal .
2. The Division Railway Manager(P), South Eastern Railway, Khurda Road, At/PO: Jatni, Dist.Khurda .
3. Divisional personnel Officer, South Eastern Railway, Khurda Road, At/PO: Jatni, Dist.Khurda .
4. Chief Vigilance Officer(T), South Eastern Railway, Calcutta, West Bengal .

... Respondents .

2 By legal practitioner: Mr.Ashok Mohanty, Senior.
Counsel (Rly.s)

O.A.223/1998.

Sri Abhiram patra,
Aged about 32 years,
S/o .Sri Divyasingha patra,
Vill .Batola, Po: Motari,
Ps: Pipli, Dist. puri.

... Applicant.

By legal practitioner: M/s .M.M.Basu, D.Dey,
Advocates .

-Versus-

1. Union of India represented by the
General Manager, South Eastern
Railway, Garden Reach, Calcutta.
2. Divisional Railway Manager,
South Eastern Railway,
PO/PS: Khurda Road,
Dist: Khurda.
3. Divisional Operating Superintendent,
South Eastern Railway,
PO/PS: Khurda Road, Dist. puri.

... Respondents .

By legal practitioner: M/s .D.N.Mishra,
S.K.panda,
Standing Counsel (Railways) .

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O R D E R

MR. S.A.T.RIZVI, MEMBER (ADMN.):

Heard Mr.B.N.Nayak, Learned Counsel for the
Applicant and Mr.Ashok Mohanty, Learned Senior Counsel for
the Respondents in Original Application No.160/98 and
Mr.M.M.Basu, Learned Counsel for the Applicant and Mr.D.N.
Mishra, Learned Standing Counsel appearing for the
Respondents ^{in O.A. No 223/98} and have also perused the records in both the
cases. *d.*

2. After consideration, both these Original Applications are being disposed of by this common order not because similar issues of law and fact have been raised on the merits of the cases, but because both the applicants claimed to be one and the same person namely Abhiram patra, S/o. Dibyasingha patra. It is the question of identity, therefore, which has compelled us to consider both the Original Applications simultaneously and to pass this ^{common} order ~~commonly~~ in both the Original Applications.

3. Before we proceed further, the facts contained in the two Original Applications are briefly recounted in the following paragraphs.

4. The Applicant in Original Application No. 160 of 1998 states that he was working as a substitute Token Porter since 22-5-1976. In due course, a panel was drawn up in pursuance of a scheme for absorption of persons like the applicant in Gr.D posts in the pay scale of Rs. 750-940/-. The aforesaid panel was published on 25.1.1991 wherein the applicant in this O.A. was placed at Sl. No. 22. While all the other candidates figuring in the aforesaid panel were appointed in Gr.D posts, the applicant was not so appointed. On the other hand, he learnt that in his place, Respondent No. 1 appointed one Shri Bijoy Harichandan who had impersonated as Abhiram patra which is the Applicant's name. ^{The} ~~This~~ Applicant made representations in the matter and served a legal notice as well on 2.9.1992. After a great deal of persuasion and as a result of ^{investigations} ~~enquiries~~ made, the Respondents, according to this Applicant, discovered that one Shri B.K. Harichandan had personated ^{as} the applicant, and accordingly the said

Shri Harichandan was removed from service on ^{14.8} 20.8.1995. Thereupon the Applicant has made further representations for his own appointment but in vain.

5. From the reply filed on behalf of the Respondents, in respect of this O.A., ^(No. 160/98) it is seen that due to ^{the} crisis of identity, the Respondents have not in so many words and clearly enough asserted that the one who got away with an order of posting as Taken porter was a fake person and was not Abhiram patra by name. This is despite the fact that the vigilance investigation made had revealed that the person working as Taken porter in consequence of the aforesaid posting order had given ~~false~~ identity of himself and consequently the person found working in the name and styled of Abhiram patra was Vijaya Ku. Harichandan. The ^{aforesaid} ~~impersonated~~ ^{or} was, as stated, removed from service in August, 1995.

6. The very same person who is supposed to have impersonated as Abhiram patra has, in the meanwhile, ^{come up} before this Tribunal in the aforesaid other O.A. No. 223/98 by alleging that he is the real Abhiram patra and not the person who has filed the other O.A. (OA No. 160/98). This applicant has owned up his removal from service ordered on 14.8.1995 (Annexure-5) and is before us with the prayer for quashing and setting aside the aforesaid removal order as also the orders contained in Annexures-1 & 2 by which he was placed under suspension and departmental action initiated against him respectively. The Departmental ^{appeal} filed by this Applicant against the order of his removal from service (Annexure-6) apparently remains undecided.

7. During the course of hearing, learned counsel appearing on behalf of the Applicant in O.A.No.223/98 has filed a Memo (taken on record) which discloses that the Applicant in that O.A. has preferred T.S.No.229/99 before the Learned Civil Judge(Sr.Division), Pipili for a declaration that it is he who is the real Abhiram patra S/o.Dibyasingha patra. Dibyasingha patra has been impleaded as Defendant No.4 in that Civil Suit. However, he is yet to file his written statement. The aforesaid suit stands posted for 21.2.2002 for the said purpose.

8. On a careful consideration of the peculiar facts and circumstances in which two different persons both allegedly impersonating each other, have come up before us by filing different OAs, for claiming one and the same post namely that of Token porter, and having regard to the details provided by the learned counsel for the Applicant ^(OA no. 223/98) in the aforesaid memo filed in the court today itself, we are of the view that these OAs can be decided on merits in so far as the appointment to the post of Token porter is concerned only after the identity of Abhiram patra S/o.Dibyasingha patra has been correctly established on conclusion of the proceedings currently underway in the Civil Court. In the circumstances, both these OAs would deserve to be disposed of ^{as premature and} in the aforesaid terms.

9. The issue of limitation in filing these OAs also came up for consideration. The panel on the basis of which claims for appointment to the post of Token porter are

being made was drawn up and published in 1991. Non-implementation of the aforesaid panel by failing to offer an appointment in Gr.D post should have given rise to a grievance shortly thereafter. The Applicant in the OA No.160/98 has, however, remained unconcerned and has chosen to file the aforesaid OAs in March, 1998. The grounds advanced in support of the condonation of delay by this Applicant is wholly unconvincing. This Applicant (in OA No.160/98) has in order to overcome limitation, drawn our attention to Respondents' letter dated 8.2.1996 (Annexure-A/5) which conveys that his representation in the matter had been examined but a decision could not be taken in view of the pending C.B.I. investigation. Applicant in the other O.A. (223/98) was removed from service in August, 1995. He filed the Departmental appeal against removal order on 1.11.1995 and has thereafter come up before us, by filing the aforesaid O.A. on 21.4.1998. We have been told during the course of hearing that the Applicants in both these OAs have kept on filing representations one after the other, and therefore, the law of limitation will not apply. We have considered this submission carefully. By now it is settled law that repeated representations can not help in reviving limitation. In accordance with sec.21 of the AT Act, 1985, both the applicants were required to come up before us much earlier than they have actually done. In the circumstances, these OAs are clearly time barred.

10. For the reasons outlined in the preceding paragraphs, these Original Applications are disposed of

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in the afore-stated terms.No costs.

Manoranjan Mohanty
14.02.2002

(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)

S.A.T. Rizvi

(S.A.T.RIZVI)
MEMBER(ADMN.)

KNM/CM.