

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 27 OF 1998.

Cuttack, this the 3rd of January, 2000.

Sukul @ Sukul Marandi. Applicant.
Versus
Union of India & Ors. Respondents.

FOR INSTRUCTIONS

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

ISSMINA H. SONG
VICE-CHAIRMAN

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ORIGINAL APPLICATION NO. 27 OF 1998.

CUTTACK, this the 3rd day of January, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
AND
THE HONOURABLE MR. G. NARASIMHAM, MEMBER(JUDL.)

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SUKUL % Sukul Marandi, Aged about 48 years,
S/o. Fudan, Sr. Trolleyman, PW-I, Cuttack. Applicant.

By legal practitioner : M/s.B.K.Sahoo, K.C. Sahoo, Advocates.

-Vrs.-

1. Union of India represented by the General Manager, South Eastern Railway, Garden Reach, Calcutta-43, West Bengal.
2. Senior Divisional Engineer(Co-ordination), SE Rly., Khurda Road, PO: Jatni, Khurda.
3. Assistant Engineer(Central) SE Railway, Cuttack, College Square, Cuttack.

.... Respondents.

By legal practitioner : M/s.B.Pal, P.C.Panda, S.K.Ojha,
P.Das, Senior Counsel (Rlys.).

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:

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- a) For quashing the Departmental proceedings initiated against him;
- b) for a direction to the Respondents to pay the applicant full salary from 26.5.97 with all service benefits;

AND

c) to direct the Respondents to place the applicant to his original post of Trolley Man.

2. Facts of this case, according to applicant, are that he is a S_cheduled Caste person and has been working as a Trolley Man under PW-I, Cuttack for the last 26 years. He was placed under suspension on 26.5.1997, in order at Annexure-1. Subsequently, in order dated 24.6.1997, the suspension order of the applicant was revoked w.e.f. 23.6.1997 but thereafter, the petitioner was not allowed to join his duty even though he is attending the office every day. For this, he filed a representation on 15.7.97 at Annexure-3 but without any result. He was issued with charge-sheet in order dated 23.10.1997 in which it was stated that on 25.5.1997, the petitioner rushed to the PWI Office in drunken condition by breaking the gate lock and abused and misbehaved the Chowkidar on duty ^{with} ~~and~~ ^{1 J.M.} and took away the gate lock. The chargesheet is at Annexure-5. Applicant filed a representation on 20.11.97 asking copies of various documents but these were not supplied. He was also not paid any subsistence Allowance. He submitted several representations but without any result. It is submitted by the applicant that by order dated 23.10.1997, at Annexure-7, his lapses if any at all have been excused and therefore, he has come up in this Original Application with the prayers referred to earlier.

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3. Respondents in their counter have stated that the applicant who is working as Senior Trolley Man, came to the office of the PWI, Cuttack at 18.10 hours of 25.5.1997 in a drunken state and broke the *thawkidar* gate lock. This was reported by the on duty and the *1 P.M.* applicant was placed under suspension w.e.f. 26.5.1997 for his disorderly conduct. The suspension order was revoked w.e.f. 23.6.1997 in order dated 24.6.1997 but even after his revocation of the suspension order, applicant is not joining his duty and remaining absent. Respondents have denied that they have refused to supply the documents to the applicant. They have stated that all documents mentioned in the charge-sheet has been supplied to him. It is also stated that for the period of suspension 23.5.1997 to 24.6.1997 subsistence allowance was drawn for payment to the applicant but he did not come and receive the money which is lying unpaid. Respondents have stated that after revocation of the suspension order, applicant has been posted as Gangman in the same scale of pay of Trolley man as on the ground of safety it would not be safe to allow the applicant to continue in the old job of Trolley man in view of his conduct and as the job of Trolley man is connected with the movement of train and trolley, it can not be jeopardised by the applicant, *if* he works as a Trolley man. On the above grounds, Respondents have opposed the prayer of applicant.

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4. We have heard Mr.B.K.Sahoo, learned Counsel for the Applicant and Mr.B.Pal, learned Senior Counsel appearing for the Departmental Respondents and have also perused the records.

5. Learned counsel for the applicant has filed Miscellaneous Application No. 590/99 with a prayer to direct the opposite parties to allow him to join his duty as Trolley Man. This Miscellaneous Application has also been considered alongwith the Original Application. We have also heard learned Counsel for both sides on this Miscellaneous Application.

6. The first prayer of applicant is that the Departmental proceedings initiated against him should be dropped or the Inquiring Officer should be changed. In support of his contention for dropping the Departmental proceedings it has been submitted by learned counsel for the petitioner that in order dated 23.10.1997, the lapses, if any, at all of the applicant has been excused and therefore, there is no justification for continuing the Disciplinary proceedings against him. We have gone through this order dated 23.10.1997, at Annexure-7 filed by the applicant himself. In this order his lapses have not been excused. This is merely

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an order revoking his suspension order. There is nothing in this order that the lapses of the applicant has been excused and this being the sole ground urged by the applicant for dropping the proceedings, we hold that the applicant has not been able to make out a case for dropping the Departmental proceedings. This prayer, is, therefore, held to be without any merit and is rejected.

7. The second prayer is for changing the Inquiring Officer. Applicant in his petition has made out no ground for changing the Inquiring Officer. In any case, if he is so advised, he may file a petition before the Disciplinary Authority under the relevant rules for changing the Inquiring Officer. Not having been done so, he can not approach the Tribunal directly. This prayer is also held to be without any merit and is rejected.

8. His next prayer is that he should be paid full salary from 25.6.97 with all service benefits. Applicant was under suspension from 26.5.97 to 24.6.97. Respondents have mentioned in their counter that Subsistence Allowance for these periods was drawn but the applicant did not receive the amount and this is lying unpaid. In view of this, we direct the applicant to approach the disbursing authority for disbursement of the amount of subsistence allowance during the period of suspension. Whether he is entitled to

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the full salary during the period of suspension will depend upon the final order on the disciplinary proceedings initiated against him. At this stage, no order can be passed allowing him the full salary and allowances.

9. As regards his emoluments after revocation of the suspension order, this prayer is being taken up alongwith the next prayer of applicant which is that he should be allowed to join as Trolley Man. As earlier noted, on revocation of suspension order, Respondents have directed him to join as Gangman in the same scale of pay on safety consideration. Applicant having worked for 26 years as per his statement as Trolley man, has refused to join as Gangman. The Assistant Engineer(Central), SE Railway, Cuttack in his letter addressed to the Senior Divisional Engineer(North) SE Railway, Khurda Road, at Annexure-7 has recommended that he should join as Gangman and thereafter, he should be transferred to some other unit as Trolleyman. As before suspension the applicant was working as a Trolley Man, on revocation of the suspension order, he has to be allowed to join as Trolleyman because after revocation of the suspension order status ante has to be restored. In view of this, we direct that the applicant should be allowed to join as Trolley man, if not in his present station in some other unit for which Respondents should issue the transfer order to the applicant as Trolleyman within a period of 15 days from the date of

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receipt of a copy of this order on his joining as Trolleyman either in his present place of posting or his new place of posting, he will only be entitled to his emoluments as Trolleyman for the period from 25.6.97 till his joining as Trolleyman. Applicant has not received any salary and allowances from 25.6.97. Applicant is directed to file a representation to the Departmental Authorities with regard to the allowances for the periods. This representation be filed within a period of 30 days from the date of receipt of a copy of this order and the Respondents are directed to dispose of the representation of the applicant, within a period of 60 days thereafter. We make it clear that if the applicant has any grievance with regard to the order to be passed in his representation, then he will be at liberty to approach the Tribunal for such grievance.

10. In the result, with the observations and directions made above, the Original Application is disposed of. NO costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

SUMNATH SOM
VICE-CHAIRMAN
SOM

KNM/CM.