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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

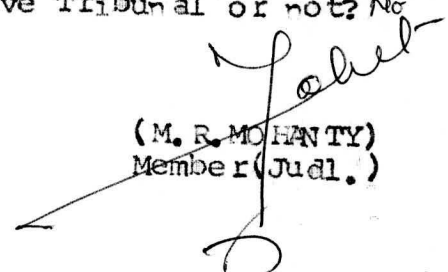
Original Application No. 414 of 2000
Cuttack, this the 17th day of December, 2004

Kanhu Charan Jani. Applicant.
-Versus-
Union of India & Ors. Respondents.

FOR INSTRUCTIONS

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


(B.N. SOM)
Vice-Chairman


(M. R. MOHANTY)
Member (Judl.)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 414 OF 2000
Cuttack, this the 17th day of December, 2004.

CORAM:

THE HONOURABLE MR. B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR. M. R. MOHANTY, MEMBER (JUDL.).

.....

Kanhu Charan Jani,
Aged about 60 years,
S/o. Parsu Jani,
Vill. Guhariapata,
PO: Baladhuapalli,
Ps: Khallikote,
Dist. Ganjam,
at present Senior MTRK(P)/KUR,
South Eastern Railway,
At/Po: Khurda Road,
Jatni, Dist. Khurda.

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Applicant.

By legal practitioner: M/s. J. K. Mishra, N. C. Mishra, Advocates.

-Vrs.-

1. Union of India represented by the
General Manager, South Eastern Railway,
Garden Reach, Calcutta.
2. Senior Divisional Engineer (Electrical),
South Eastern Railway, Khurda Road, Jatni,
At/Po: Khurda Road, Dist. Khurda.
3. Divisional Railway Manager (Electrical),
South Eastern Railway, At/Po: Khurda Road,
Jatni, Dist. Khurda.
4. Divisional Railway Manager (P),
South Eastern Railway,
At/Po: Khurda Road, Jatni,
Dist. Khurda.

..... Respondents.

By legal practitioners: Mr. D.N. Mishra, Counsel for Respondents.

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O R D E R

MR. MANORANJAN MOHANTY, MEMBER (JUDICIAL):-

Applicant Kanhu Charan Jani is a retired personnel of the South Eastern Railway. He was inflicted with the punishment of compulsory retirement from service on 28.06.2000 (i.e. just two days before his normal date of superannuation) at the conclusion of a disciplinary proceedings. In the said premises, the Applicant has moved this Tribunal in the present Original Application under section 19 of the Administrative Tribunals Act, 1985 on the ground that nothing was intimated about the proceedings that was initiated against him and that all on a sudden, after his superannuation on 1.7.2000 he received a corrigendum notice dated 17-07-2000 in preponing the date of his superannuation as 29-06-2000 instead of 30-06-2000; which was accompanied by the punishment order. He has branded the said action of the Respondents to be against the canons of justice, equity and fairplay. Apart from that it is the case of the Applicant that the impugned action to be opposed to Railway Servants' Disciplinary and Appeal' Rules, 1968.

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2. Respondents, by placing a counter on record, have submitted that, as admitted by the Applicant in his Original Application, the Disciplinary proceedings (which was concluded with the order of punishment) was reopened pursuant to the orders dated 14-09-1998 of this Tribunal rendered in O.A.No.118 of 1993 from the stage of furnishing a copy of the enquiry report to the Applicant and asking him to furnish his comments thereon and that only after receipt of the explanation from the Applicant fresh order of punishment (of compulsory retirement) dated 28-06-2000 was passed by the competent authority; which was acknowledged by the Applicant on 29-06-2000. It has been clarified by the Respondents, in their counter that it is incorrect to say that the Applicant did not know anything about the Disciplinary proceedings, in question till the date of his retirement. It is the case of the Respondents that the Applicant had received the punishment notice on 29-06-2000, he had been served with the copy of the enquiry report on 02-12-1998 and he had submitted his comments (to the enquiry report) on 15-12-1998. Applicant was issued with a letter dated 21-12-1998 as explained in the counter, providing him opportunity for personal hearing, whereafter the Applicant had submitted an appeal dated 05-02-1999 (which was received by the Respondents on the same day) and that the punishment of recovery of

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Rs. 82,300/- to be not at all connected with the case No. CON/SDEE/D&A/VIG/KCJ/84/dated 12-1-1984 (which was the subject matter of challenge in O.A.No. 275/2000) and that since, in the retirement notice, it was wrongly mentioned the date of superannuation of the Applicant as 30.06.2000 (instead of 28-06-2000) the same was modified by issuing the corrigendum dated 17-07-2000 and, by stating so, the Respondents not only vehemently opposed the prayers made in this Original Application but also prayed for dismissal of this Original Application being devoid of any merit.

3. We have heard learned counsel for the parties and perused the materials placed on record. On perusal of the records, it is seen that the Applicant has categorically mentioned (in his original Application) that he was not at all aware of the proceedings initiated against him ; whereas in the counter it has been clarified by the Respondents that at each stage, the Applicant was communicated with the progress/result of the proceedings with due acknowledgements and it has also been clarified by the Respondents that though the Applicant physically retired from service on 29.06.2000; in the order of retirement/punishment notice, it was wrongly mentioned as

30.06.2000; which was subsequently corrected by issuing a corrigendum. On perusal of the materials and on giving our anxious thoughts to the various submissions placed by learned counsel for rival parties, it is clear that the Govt. has the power to correct any mistake at any point of time. It is also settled position of law, as per Indian Evidence Act that men may lie but document will not. Whether the Applicant superannuated from 1.7.2000 or 28.6.2000 is a matter can be well ascertained from the official documents. It is also seen that the Applicant did not challenge the said order of compulsory retirement soon after the same was received; nor did he make any representation to his higher authorities against the order of punishment. It has also been clarified by the Respondents that by implementation of the order of punishment, there will be no financial loss to the Applicant.

4. In the above premises, while we are not inclined to interfere with the order of punishment; we once again leave the matter to the Respondents/ Authorities to verify the records as to whether the order of punishment was duly acknowledged by the Applicant and as to whether the Applicant had worked for those two days or not; which should be done in presence of the Applicant on a suitable date to be intimated to him (to remain present) and in case it is established that the Applicant had worked for those two days, then the

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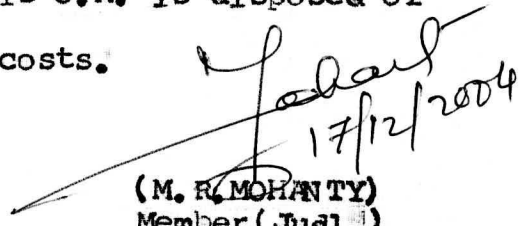
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Respondents should not recover any amount/emoluments for those two days from the Applicant.

5. In the result, this O.A. is disposed of in the aforestated terms. No costs.


(B.N. SOM)
Vice-Chairman


17/12/2004
(M. R. MOHANTY)
Member (Judl.)