

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NO. 1507 OF 2003
CUTTACK, THIS THE ~~11~~ DAY OF August, 2008**

Benu Behera Applicant

Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?


(C.R.MOHAPATRA)
MEMBER (ADMN.)


(K.THANKAPPAN)
MEMBER (JUDL.)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 1507 OF 2003
CUTTACK, THIS THE ~~14~~ DAY OF August, 2008

CORAM :

HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER(J)
HON'BLE MR. C.R.MOHAPATRA, MEMBER(A)

Benu @ Benu Behera, aged about 60 years, S/o. Bike Behera, Village/PO- Sadhagoi, P.S. Delang, Dist-Puri, was working as Keyman, Gang No.6, Malatipatpur, Puri, S.E.Railway, Khurda Division.

.....Applicant

Advocate(s) for the Applicant- M/s. Biswajit Nayak, S.Lal.

VERSUS

1. Union of India represented by the General Manager, South Eastern Railway, Garden Reach, Kolkata-43.
2. Divisional Railway Manager, South Eastern Railway, At/PO-Jatani, Dist. Khurda.
3. Senior Divisional Railway Manager, South Eastern Railway, AT/PO- Jatni, Dist-Khurda.
4. Divisional Engineer, South Eastern Railway, At/PO-Jatani, Dist- Khurda.
5. Junior Engineer, South Eastern Railway, Khurda Division, Malatipatpur, Puri.

.....Respondents

Advocates for the Respondents – Mr. M.K.Das.

ORDER

HON'BLE MR.JUSTICE K.THANKAPPAN, MEMBER(J):

This is an application filed by a Railway Employee for a direction to regularize his absence from duty from 09.07.2001 to 31.01.2003. Further, it is prayed that the Respondents may be directed to pay the arrears of salary for the above period.

2. The applicant while working as Keyman under the Permanent Way Inspector, Puri absented from service from 03.07.2001 onwards. The applicant claims that he was under treatment for his ailments and the medical certificates were also produced before the Respondents for granting him medical leave and to regularize his period of absence but without considering any of the applications, the Respondent Nos. 3 to 5 ordered him to retire on attaining the age of superannuation as per Annexure-A/7 letter. Aggrieved by above stand taken by the Respondents, applicant filed this O.A. The applicant relied on Annexure-A/1 to A/4 medical certificates to substantiate his claim.

3. A preliminary counter has already filed for and on behalf of the Respondents, in which it is stated that the applicant absented from duty from 09.07.2001 to 31.01.2003 and as the applicant was to retire on 31.01.2003, Annexure-A/7 letter has been issued. Further, it is stated in the counter that the applicant had not filed any representation or any application for his medical leave either to the controlling authority or to the superior officer and the applicant had already submitted all the documents which were requested by Annexure-A/7.

4. The question to be decided in this O.A. is whether Respondents are justified in taking the stand that the applicant was

unauthorizedly absent from duty from 09.07.2001 to 31.01.2003. Though the applicant had averred in the O.A. that he had produced Annexure-A/1 to A/4 before the authorities for granting him medical leave, the applicant miserably failed to show that he had actually filed any application with medical certificates, which now he claims. Apart from that, the period of unauthorized absence has been already considered by the authority at the time of his retirement and after the retirement he had approached the Tribunal. As the applicant has not produced any documentary evidence to show that he was actually hospitalized as per Annexure-A/1 to A/4 and as there was no evidence to substantiate his claim, we are of the view that the O.A. is devoid of any merits and is liable to be dismissed. Accordingly, the O.A. stands dismissed as meritless. No order as to costs.

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(C.R.MOHAPATRA)
MEMBER (ADMN.)

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(K.THANKAPPAN)
MEMBER (JUDL.)

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