

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.567 of 2004
Cuttack, this the 5th day of August, 2009

P.S.Chakraborty Applicants
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

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


(JUSTICE K.THANKAPPAN)
MEMBER (JUDICIAL)


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

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.567 of 2004
Cuttack, this the 5th day of August, 2009

C O R A M:

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

.....
P.S.Chakraborty, aged about 45 years, son of Late K.K.Chakraborty working as Catering Supervisor Gr.II under Chief Catering Inspector, E.Co.Railway, Puri at present residing at Qr.No.T 26/1, Railway Colony, Puri, PIN 752 002.

.....Applicant

Advocate for Applicant: Mr.Achintya Das

-Vs-

1. Union of India service through General Manager, E.Co.Railway, Chandrasekharpur, Bhubaneswar.
2. Chief Commercial Manager (PS), S.E.Railway, 14 Strand Road, Kolkata-1, PIN 700 001.
3. Sr. Divisional Commercial Manager, E.Co.Railway, Khurda Road, PO. Jatni, Dist. Khurda, PIN 752 050.
4. Shri S.C.Dutta, Stores Clerk, C/o.Sri G.V.S.Murty, Chief Catering Inspector, E.Co.Railway, Puri, PIN-752 002.
5. Shri G.Appa Rao, MRR, C/o.G.Bhanu Murty, Station Manager, E.Co.Railway, Palasa, PO. Kasibugga, Dist. Srikakulam.

....Respondents

Advocate for Respondents: Mr.R.C.Rath

O R D E R

Per- MR.C.R.MOHAPATRA, MEMBER (A):-

The grievance of the applicant is against the order under Annexure-A/1 dated 16.11.2001 directing the posting of the Applicant in non-cash handling job.

Short fact of the matter, according to the Applicant, is that the applicant was selected and empanelled for promotion to the post of Catering Supervisor Gr.II (CAIR-II) in the scale of Rs.1200-2040/4000-6000/-. Thereafter, he was promoted as Catering Supervisor-II in scale Rs.4000-6000/- vide office order dated 7.4.2004 with immediate effect. Respondents used to raise catering debit against most of the Catering Supervisors/Inspectors on account of

several reasons which used to be subsequently jointly verified on table and reconciled and if there be any admitted debit, the same is either deposited by the concerned Supervisor or being recovered from his salary. In the process when the applicant was working as Catering Supervisor III some catering debit (not admitted) has been raised against him and many others. But in a discriminatory manner, the applicant is not being allowed to perform his normal duties and is being utilized in non-cash handling job. Whereas others who are having more debit than the applicant are allowed to working their normal duties including cash handling. In the meantime, the applicant after due process of selection has been promoted as Catering Supervisor-II w.e.f. 7.4.2004. Even then the applicant was not being allowed to perform his normal duties. Being aggrieved, he has submitted two representations dated 13.5.04 and 8.7.04 for allowing him to perform his normal duties which are yet to be disposed of. Branding the action of the Respondents as illegal and arbitrary, he has preferred this OA seeking to quash the impugned letter No. A/R/AU/PC-7/PUI/1533 dated 08.08.2001 issued by the Chief Commercial Manager (Catering), S.E.Railway, Kolkata and circulated by the Senior Divisional Commercial Manager, E.Co.Railway, Khurda Road vide his letter No. G.129/Catg./Debit/PSC/PCM-7/Puri dated 16.11. 2001 and allow the applicant to perform his normal duties of catering Supervisor Gr.II at par with others.

2. While working as Pantry Car Manager at Puri, as it was found that Rs.99, 536/- was lying outstanding against the applicant it was instructed by Chief Commercial Manager (Catering), S.E. Railway,

Kolkata vide letter dated 08.08.2001 to give the applicant non-cash handling job. Accordingly, the Sr. Divl. Commercial Manager, KR vide letter dated 11.11.2001 posted the applicant in non-cash handling job in the interest of administration. The above order was neither a punishment nor a stigma in the career of the applicant. The applicant was in habit of making financial irregularities and was not taking interest for compliance of the Headquarters instruction dated 24.5.1999. The Respondents have denied the allegation of applicant that even persons having shortage of money have been posted in cash handling job. They have further stated that the applicant was allowed to work in cash handling job on 26.2.2005. He performed the said job upto 22.4.2005 and thereafter remained unauthorized absence from duty from 23.04.2005 to 14.06.2005 and from 30.06.2005 to 15.08.2005. It has been stated that by the posting of the applicant there was no degradation of the applicant nor was there any reduction of his salary. Since this was a conscious decision taken by the Respondent in public interest or in the interest of administration, there is no need for interference by this Tribunal. It has also been stated by the Respondents that this OA is liable to be dismissed on the ground of limitation as the applicant by filing this OA on 16th August, 2004 challenges the order 16.11.2001 which is beyond the period of limitation provided in section 21 of the A.T. Act, 1985. By stating so, the Respondents have prayed for dismissal of this OA both on merit as also on limitation.

3. Heard Mr. Achintya Das, Learned Counsel appearing for the Applicant and Mr. R.C.Rath, Learned Counsel appearing for the Respondent-Department and perused the materials placed on record.

4. It is seen from the record, after the impugned order under challenge in this OA, the applicant was allowed to work in cash handling job on 26.2.2005. He performed the said job upto 22.4.2005 and thereafter remained unauthorized absence from duty from 23.04.2005 to 14.06.2005 and from 30.06.2005 to 15.08.2005. This order has not been challenged by the Applicant in this OA. As prima facie it was noticed by the competent authority that there has been debit of substantial amount of Rs.99, 536/- in the credit of the Applicant, it was consciously decided to post the applicant in non-cash handling duty. By such order neither there was any degradation of the post of the applicant nor was there reduction of his pay which he was getting. We may record that posting of an employee is within the discretion of the employer. One can have a grievance in such matter, if by such posting there has been reduction in rank or in his salary. This is a policy decision as also we see that the ground of keeping the applicant away in handling of cash was due to outstanding of huge amount of Rs.99,536/-. However, it is seen that he was subsequently posted in such job but according to the Respondents which he has not contradicted by filing any rejoinder, he abandoned from his duty unauthorizedly. We also see no explanation for filing this OA belatedly.

5. Viewed the matter from any angle we see no justification to interfere in the matter. Hence this OA stands dismissed by leaving the parties to bear their own costs.

K. Thankappan
 (JUSTICE K. THANKAPPAN)
 MEMBER (JUDICIAL)

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