O.A.No. 1130 of 2004.

ORDER DATED 25-08-2005.

Applicant R.Balakrishna was a Locomotive Driver of South Eastern Railway/East Coast Railway. He, having faced a disciplinary proceedings under Rule-9 of the Railway Servants Discipline and Appeal Rules, 1968 under Annexure-1 dated 01.02.2002, was, ultimately imposed with the order of punishment (of compulsory retirement.from Railway Service) under Annexure-A/5 dated 03-05-2002. Appeal preferred by the Applicant under Annexure-A/6 dated 27-05-2002, having been dismissed under Annexure-A/7 dated 11/25-03-2003, the Applicant has preferred this Original Application (on 15th of September, 2004), under Section 19 of the Administrative Tribunals Act, 1985; wherein he has challenged the said orders of the Disciplinary Authority (passed under Annexure-A/5 dated 03.05.2005) and of the Appellate Authority (passed under Annexure-A/7 dated 11/25-03-203) and has also sought a direction (to the Respondents) to reinstate him with all service benefits.

2. Respondents have filed a counter to the said Original Appliation.

3. Heard Mr. M.B.K.Rao, Learned Counsel appearing for the Applicant, and Mr. R.C.Rath, learned Standing Counsel appearing for the Respondents.

4.   It has been submitted by the Learned Counsel appearing for the Applicant, (by placing into service the letter dated 19.03.2004 of Sr. Divisional Mech. Engineer of E.Co.,Railways, stationed at Waltair) that although compulsory retirement was inflicted on the Applicant and another Driver/Loco/RGDA, (who was a Co-Driver of the Applicant on the same train and also faced disciplinary proceedings with the Applicant for the same alleged offence) the said punishment of compulsory retirement was modified (to that of reversion to the post of Shunter, in the grade of Rs.4,000-6,000/-, with a direction that till the date of his superannuation, his pay should be fixed at the initial scale of pay) by the revisional authority in respect of the said Co-Driver named Shri G.Appa Rao; whereas no such order has been passed in the case of Applicant, apparently, due to non-filing of the revision and, therefore, it was prayed by the Advocate for the Applicant for grant of liberty (to the Applicant) to file a revision petition for consideration of his case in the light of the consideration given in the case of said Shri G.Appa Rao.

5.   Having gone through the order of the revisional authority (passed in the case of Shri G.Appa Rao), we find that the said Authority, after going through the materials placed on record, has passed a reasoned order modifying the order of punishment of compulsory retirement (as passed against the Co-Driver Shri G.Appa Rao) to that of reversion.

6.   It is also evident from the record that both the Applicant and said Shri Rao were visited with the punishment of compulsory retirement for one and the same incident that took place on 13.01.2002 . Since the punishment of compulsory retirement imposed on Co-Driver, who was on duty in same train with the Applicant, was modified to that of reversion by the Revisional Authority, there is no reason to maintain the punishment that was imposed on the Applicant. It also appears that for the self same reason, for which the punishment was modified/reduced in respect of the Co-Driver, the punishment imposed on the Applicant can be modified/reduced.

7.   In the above view of the matter, we dispose of this Original Application by granting liberty to the Applicant to make a representation to his   Revisional Authority (which he should do by the end of September, 2005) and his Revisional Authority should consider the matter on merit and dispose of the said representation/revision petition of the Applicant by end of December, 2005 under intimation to the Applicant. We would, however, make it clear that in order to avoid any discrimination, the Revisional Authority, while dealing with   the grievance of the Applicant, should keep in mind the orders already passed in the case of the Co-Driver Loco/RGDA named Shri G.Appa Rao.

(B.N.SOM)   (M.R.MOHANTY)
VICE-CHAIRMAN   MEMBER(JUDICIAL)
                                                          25/08/05