

7

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.948 of 2005

Cuttack this the **22nd** day of March, 2011

Ramesh Chandra Behera...Applicant

-VERSUS-

Union of India & Ors. ...Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ?
2. Whether it be referred to C.A.T., PB, New Delhi or not ?


(C.R. MOHAPATRA)

ADMINISTRATIVE MEMBER


(A.K. PATNAIK)

JUDICIAL MEMBER

8
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CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

AND

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

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Ramesh Chandra Behera, aged about 49 years, S/o. Sri Banchhanidhi Behera, working as Office Suptd., Grade-I, in the Office Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO-Jatnai, Dist-Khurda

...Applicant

By the Advocates:M/s.J.M.Pattnaik, S.Mishra, A.P.Mishra

-VERSUS-

1. Union of India represented through General Manager, East Coast Railway, Chandrasekharpur, Bhubanesr, Dist-Khurda
2. Chief Personnel Officer, East Coast Railway, Chandrasekharpur, Bhubanesar, Dist-Khurda
3. Divisional Railway Manager, East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda
4. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda
5. Sri A.G.Unger, working as Chief O.S. in the Office of Senior Divisional Personnel Officer, Khurda Road Division, At/PO-Jatni, Dist-Khurda

...Respondents

By the Advocates: Ms.S.L.Patnaik, M/s.N.Patra, A.K.Patra, B.N.Shadangi, M.K.Khuntia

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2

ORDER

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER:

1. Applicant, Ramesh Chandra Behera, at present working as Office Superintendent, Grade-I in the Office of Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, has approached this Tribunal in the present Original Application seeking the following reliefs:

- i) To direct the Respondent No.3 to implement the order on its true spirit and proper prospective in O.A.No.725/2003 Dt.30.06.2005 there by giving antedating promotion w.e.f. 08.03.2001 where his junior A.G.Unger has promoted to the post of O.S. Grade-I
- ii) Further be pleased to direct the respondent No.4 to grant all consequential benefits to the applicant by treating to be O.S. Grade-I dtd. 8.3.2001
- iii) Further be pleased to pass any other order(s)/direction(s) as this Hon'ble Tribunal deems fit and proper and direct the respondent No.4 to implement the order within a reasonable time.

2. Respondent-Railways have filed a detailed counter affidavit opposing the prayer of the applicant, to which applicant has filed a rejoinder too.

3. We have heard Shri J.M.Patnaik, learned counsel for the applicant, Ms.S.L.Patnaik, learned Counsel for the Respondent-Railways and Shri N.Patra, learned counsel appearing on behalf of the private Respondent No.5 and perused the materials on record.

3. Before trying the matter on merit, it would be profitable to catch a glimpse with regard to maintainability of this Original Application.

4. From the relief sought, it reveals that the applicant, by filing the present Original Application, has made an attempt to get certain order from this Tribunal in an earlier Original Application, implemented. In this context, we have gone through the relevant provisions of Administrative Tribunals Act and Rules. The Original Application in its present form is hit by Section 19 of the A.T.Act, 1985, as there has been no impugned order within the scope and meaning of Section 19 read with Section 20 of the A.T.Act, 1985, by which the applicant could be said to be an aggrieved person. In the above context, the relevant portion of Sections 19 and 20 read as under:

“19. Application to Tribunals – (1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

EXPLANATION – For the purposes of this sub-section, “order means an order made –

- (a) By the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation (or society) owned or controlled by the Government; or
- (b) By an officer, committee or other body or agency of the Government or a local or other authority or corporation (or society) referred to in Clause (a).

20. Applications not to be admitted unless other remedies exhausted-(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances”.

5. Besides the above, A.T. Act and Rules leave no room for implementation of certain order of the Tribunal, finally disposing of an Original Application, by virtue of another Original Application, as the remedy in that behalf lies elsewhere.

6. Respondent-Railways have, in their counter filed, raised the plea of maintainability of this O.A. on the ground that the same is hit by the principles of res judicata. To make the matter more conspicuous, we have gone through the order-11 of the Code of Civil Procedure, which reads thus:

“No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court”.

7. From the above it is clear that the point in issue having been directly and substantially decided already in a previously instituted O.A. between the same parties, the issue so decided cannot

4

be re-agitated any further between the same parties, and therefore, the present O.A. is hit by the principles of res judicata too.

8. We would like to add further that the Respondents in their counter have brought to the notice of this Tribunal that the operation of the order dated 30.6.2005 of this Tribunal in O.A.No.725/2003, which is sought to be implemented in the present Original Application, has been stayed by the Hon'ble High Court of Orissa vide order dated 18.9.2006 in Misc.Case No.1675/2006 arising out of W.P.(C) No.2036/2006. The applicant has not stated anything either about the status of the said Writ Petition filed in the Hon'ble High Court as on date in the rejoinder filed by him.

9. For the foregoing discussions, we hold that the present Original Application is not maintainable. Accordingly, the O.A. is dismissed. No costs.


(C.R.MOHAPATRA)

ADMINISTRATIVE MEMBER

BKS


(A.K.PATNAIK)

JUDICIAL MEMBER