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M.C. 2009

O.A. No. 132 of 2007
Suresh Chandra Swain ... Applicant
Versus
UOI & Ors. Respondents

1. Order dated 13th November, 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)
.....

The Applicant while working under Ch.CC/SBP of Mechanical Department as Loco Pilot-II (Goods) in scale of Rs.5000-8000/- (RPS) was medically screened on 09.02.2007 and found suitable for the post of Power Controller instead of the post in which he was working. Accordingly, he was posted at Sambalpur under Ch.DPC/SBP in Mechanical Department with an order to discharge his duty in day shift only vide order under Annexure-A/7. Alleging such posting of the applicant was not in accordance with the Rules and instructions issued under Annexure-A/11 he has approached this Tribunal in the present OA seeking to quash the order under Annexure-A/7 on the ground that such posting of the applicant was not in accordance with the provision of Rules and instructions of the Railway Board under Annexure-A/11 and as such he seeks direction to the Respondents to give him posting in terms of Annexure-A/11. Further stand of the Applicant is that this case is fully covered by the decision earlier decided by this Tribunal in **OA**

1

**Nos.715 and 911 of 2006 decided on 3rd January, 2008 filed
by Aditya Kumar Mohanty v Union of India and others, OA
No. 910 of 2006 disposed of on 3rd January, 2008 filed by
Shri Akhelesh Dhan v Union of India and others and in OA
No.434 of 2008 disposed of on 1st May, 2009 filed by
Bibhuti Bhusan Padhiary v Union of India and others.**

Perused the aforesaid decisions of this Tribunal relied on by the Applicant. On perusal of the records of those cases vis-à-vis the records of this case including the counter filed by the Respondents, it is noticed that not only the facts of those cases but also the replies filed by the Respondents in this case are exactly the same. In view of the above, having heard the Learned Counsel for both sides, this Original Application is disposed of by holding that the Applicant is entitled to the benefit of the aforesaid decisions which the Respondents should examine and grant the benefits to the Applicant within a period of 45 days from the date of receipt of this order. No costs.

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

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