

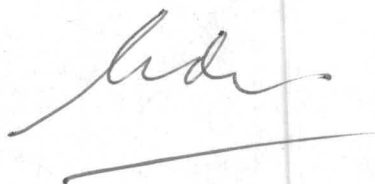
O.A.No. 93 of 2007

ORDER DATED 8<sup>th</sup> May 2007

The applicant is presently working as Fitter Grade I in the East Coast Railway. He has filed this O.A. on 09.03.2007 challenging the order dated 2/16.1.2007 (Annexure A/5) imposing on him the punishment of withholding of '9 sets of P/Passes for the year 2007 and 12 sets of PTO for 2007 and 2008 and 2009'.

2. The applicant is stated to have preferred an appeal on 18.1.2007 (Annexure A/6) against the punishment order and the same has not yet been disposed of. While this is the case of the applicant, in a nutshell, it was urged by the learned counsel for the applicant that if the Original Application would not be entertained and interim order not passed by the Tribunal staying the operation of the punishment order, the applicant would suffer irreparable loss and irremediable damages in as much as he would be deprived of availing the 'P/Passes' and 'PTO' during currency of the punishment and also during pendency of the appeal.

3. We have carefully considered this submission of the applicant's learned counsel. The period of six months from the date of presentation of the appeal dated 18.1.2007 will expire on 17.7.2007. If the Appellate Authority will decide the appeal in his favour within six months, certainly the order of punishment (Annexure A/5) will be wiped out and the applicant will be entitled to avail of the passes as usual during the remaining period of 2007, <sup>and</sup> ~~and during~~ 2008 & 2009 and nothing would prevent him from agitating the matter before the competent authority to make good the loss sustained by him due to delay, if any, in disposal of his appeal. If the decision in the appeal will go against him or the appeal is



not decided within a period of six months, the applicant is entitled to maintain an application under Section 19 of the Administrative Tribunals Act, 1985 before the Tribunal against the punishment order dated 16.1.2007 (Anenxure A/5). Therefore, there exists no exceptional circumstance under which the Tribunal should entertain this O.A. at this stage.

4. In view of our above discussions and in the light of the decision rendered by this Bench on 4.4.2007 in O.A.Nos. 66 to 68 of 2007 (*Utkal Bhusan Routray, etc. v. Union of India and others*), the applicant shall not be deemed to have exhausted the alternative remedy of appeal in as much as the period of six months from the date of presentation of the appeal on 18.1.2007 has not expired, as mandated under Section 20(2)(b) of the Administrative Tribunals Act, 1985. However, we hope and trust, in the peculiar facts and circumstances of the case, the Appellate Authority is well advised to dispose of the applicant's appeal dated 18.1.2007 as expeditiously as possible.

5. In the result, the O.A., being too premature, is not maintainable and is, therefore, rejected in limine.

B.B.M. 08/05/07  
(B.B.MISHRA)

ADMINISTRATIVE MEMMBER

N.D.R. 08-05-07  
(N.D.RAGHAVAN)  
VICE-CHAIRMAN