

9

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**ORIGINAL ALICATION NO.251 OF 2008**

Cuttack this the 05<sup>th</sup> day of April, 2011

CORAM:

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

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

...

V.S.Prasad, aged about 33 years, Son of late V.Madhab Rao along with 48 others (All are working as Goods Guards, East Coast Rly. Talcher, At/PO-Talcher, District-Angul  
...Applicants

By the Advocates: M/s.B.Dash, J.Dash, C.Mohant & S.Mohant

-VERSUS-

1. Union of India represented through General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, District-Khurda
2. Divisional Railway Manager, East Coast Railway, Khurda Road, District-Khurda
3. Divisional Railway Manager, East Coast Railway, Khurda Road, District-Khurda
4. Senior Divisional Operations Manager, East Coast Railway, Khurda Road, District-Khurda
5. Area Manager, East Coast Railway, Talcher, District-Angul  
...Respondents

By the Advocates: Mr.T.Rath

...

**ORDER**

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

1. 49 applicants, who are presently working as Goods Guards under the Respondent-Railways have been permitted to prosecute this Original Application jointly as they are having a common cause of action.
2. The applicants are aggrieved by the amendment to G & S.R. of E.Co.Railway in force from 5.10.2004 vide Annexure-A/9 dated 11.04.2008, in effect of which they are being compelled to render the duties of highly skilled technical personnel in clear contravention of Recruitment Rules. According to applicants, having been appointed as Goods Guards in pursuance of the Recruitment Rules framed in that behalf, they should

Ade

not be ~~en~~forced to do certain risk and responsible job of Isolators, which is purely a technical job to be undertaken by the personnel trained and qualified on the subject, based on purported amendment carried out to G&SR by the Respondent-Railways. They have stated that the Guards having in possession of competency certificates are authorized to open and close the isolators. In the circumstances, they have stated that being not the technical personnel they should not be compelled to discharge the duties of Isolators which are of purely technical job. In the circumstances, they have sought for the following relief:

- i) The O.A. may be allowed.
- ii) The Amendment in G&SR vide Annexure-9 may be directed to be read in its proper perspective and the respondents may be directed not to impose on any of the applicants to go for training.
- iii) The letter at Annexure-8 may be quashed so far as it relates to give instructions to the DTI and SE, SSE
- iv) The corrections sought for in Annexure-12 may be quashed.
- v) The forceful grant of competency certificate may be declared illegal.
- vi) That the respondents may be directed not to utilize the applicant in operation of Isolators switches in the siding".

2. Respondent-Railways have filed their counter opposing the prayer of the applicants, to which applicants have also filed rejoinder.

3. We have heard the learned counsel for the parties and perused the materials on record. From the pleadings of the parties the sole point to be considered is whether the applicants are obliged to discharge the duties of Isolators notwithstanding they are in possession of competency cum authorized certificates.

4. In order to decide the point in issue as raised above, it would be, in the fitness of things, to quote hereunder insertion (b) and (c) of S.R. 17.04.09, which reads as under:

- (b) The guard having competency certificate for isolator operation is authorized to open and close

*See*

the isolators as and when rakes are to be handed in the sidings. The keys for these isolators are generally kept under the custody of the station Master concerned. After the rake is placed for loading/unloading, guard will operate the isolators as prescribed in the para no.19.09 of the operating manual. Before such operation, guards shall take the precautionary measures detailed under 17.05.01 and S.R. 17.04.15(c) and also as specified in the Station Working Rules. He shall not open the isolators unless the precautions prescribed in paras 10440 and 20601 of the A.C.Traction Manual are complied with and no work should commence unless proper earthing as required under the rules is made.

- (c) (i) Guards shall not operate isolators unless he/she is in possession of a competency cum authorized certificate jointly issued by SSE/SE(Tr.D) and TI....."

5. The Respondent-Railways in their counter have not stated that the applicants are in possession of competency cum authorized certificates jointly issued by SSE/SE (Tr.D) and TI authorizing them to work <sup>on</sup> Isolators. Since it is mandatory that the Guards after undergoing training prescribed in that behalf could be entrusted with the duties of Isolators only after they are in possession of competency cum authorized certificates jointly issued by SSE/SE (Tr.D) and TI, and as admittedly, the applicants are not in possession of the said certificates, in our considered view, it would be far stretching if the Respondent-Railways compel the applicants to discharge the duties of Isolators until they are in possession of certificates as stated above. Accordingly, we answer the point in issue as raised above.

6. It is the case of the applicants that they are being forced to undergo one day training for the purpose of issuing competency certificate by the Respondent-Railways. We have considered the submissions made by the learned counsel for the applicants in

See

this regard. In our considered view, the Respondents should not <sup>not</sup> enforce the applicants to undergo one day training for the purpose of issuing competency certificates (i) without having regard to laid down norms and guidelines for the purpose of imparting the training for Isolator to be imparted by the Goods Guards, (ii) after the applicants being trained in consistent with the guidelines and procedures prescribed in that behalf should be in possession of competency cum authorized certificates jointly by SSE/se (Tr.D) and TI and (iii) only then to allow them to work, as intended by the Respondent-Railways. The above formalities having not been complied with, the Respondents are estopped to <sup>ask the applicants</sup> ~~to~~ discharge the duties of Isolators. <sub>We</sub>

With the above observation and direction this O.A. is allowed of. No costs.

  
(C.R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(A.K. PATNAIKA)  
JUDICIAL MEMBER

BKS