

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

OA No. 615 of 2010  
Cuttack, this the 23<sup>rd</sup> day of August, 2012

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)  
AND  
THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

....  
P.Sarkar, aged about 43 years, Son of Late B.B.Sarkar working  
as Junior Engineer (P.Way)/Special at Ambadola under Sr.  
Divisional Engineer (West), E.Co.Railway, Sambalpur residing  
at Qr. No.D/2/2 Ambadola Railway Station, PO. Ambadola,  
Dist. Rayagada, PIN-765 021.

....Applicant  
By legal practitioner:Mr.Achintya Das, Advocate  
-Versus-

1. Union of India represented through its General Manager, East Coast Railway, ECoR Sadan, Chandrasekharpur, Bhubaneswar, Dist. Khurda/Orissa, PIN-751 017.
2. The Additional Divisional Railway Manager, E.Co.Railway, Sambalpur, PIN 768 002.
3. The Senior Divisional Engineer (Co.Ord), E.Co.Railway, Sambalpur, PIN-768 002.
4. The Senior Divisional Engineer (West), E.Co.Railway, Sambalpur, PIN-768 002.
5. The Divisional Engineer (West) E.Co.Railway, Sambalpur, PIN-768 002.
6. The Asst. Divl. Engineer, ECoRailway, Titlagarh, PIN-767 033.

....Respondents  
By legal practitioner:Mr.P.C.Panda, Advocate

O R D E R  
C.R.MOHAPATRA, MEMBER (ADMN.):

Pursuant to the notice under Rule 11 of the Railway Servants (Discipline and Appeal) Rules, 1968 the Applicant submitted his reply. On consideration of the whole matter, the

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Disciplinary Authority imposed the punishment of "Reduction to a lower stage in time scale of pay for a period of 03 years with cumulative effect of postponing future increments on expiry of such period" under Annexure-A/4 dated 01-06-2006. Appeal preferred by the applicant having been rejected under Annexure-A/7 dated 12.05.2010 this OA has been filed by the applicant with prayer to quash the order under Annexures-4&7 and to direct the Respondents to restore, re-fix and pay back the applicant the differential salary with cumulative interest at the rate of 12% per annum forthwith. The main ground in support of the prayer of the applicant is that "Reduction to a lower stage in time scale of pay for a period of 03 years with cumulative effect of post postponing future increments on expiry of such period" is one of the punishments which can be imposed if the proceedings are taken up under Rule 9 of the RS (D&A) Rules, 1968. Initiating proceedings under rule 11 of the Rule,1968 for imposition of such a punishment de hors the Rules and principles of natural justice. Respondents opposed the prayer of the applicant in their counter filed after serving copy thereof on the other side to which the applicant has also filed rejoinder.

2. Initially, Mr.Panda, Learned Counsel appearing for the Respondents strongly opposed to the contention of the Applicant but after going through the provision of the Rules, he retracted from such a position. We have gone through the memorandum of charge

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sheet, the order of punishment as upheld by the AA and find that both the DA and the AA have dealt with the matter without due application of mind. While the applicant was proceeded with a minor penalty punishment, he was imposed with a major penalty. Accordingly, the orders at Annexures-A/4 & A/7 are held to be void *ab initio*. Both the orders (Annexures-A/4 & A/7) are hereby quashed. Resultantly, the Respondents are directed to pay the Applicant all his consequential (service and financial) benefits retrospectively. However, we make it clear that the Respondents are free to take action as per the relevant Rules.

3. With the aforesaid observation and direction this OA stands allowed to the extent stated above. There shall be no order as to costs.

  
(A.K. Patnaik)  
Member(Judl.)

  
(C.R. Mohapatra)  
Member(Admn.)