

12

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**ORIGINAL APPLICATION NO.639 OF 2010**

Cuttack this the 29<sup>th</sup> day of August, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER  
AND  
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

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Biswa Ranjan Mishra, S/o. Sri Purussottam Mishra, aged about 44 years, at present working as Loco Inspector, Angul, O/O. Sr.Divisional Mechanical Engineer, East Coast Railway, Khurda Road Division, At/PO/PS-Jatni, Dist-Khurda resident of Village/PO-Kantilo, PS-Khandapara, Dist-Nayagarh

...Applicant

By the Advocates: Mr.N.R.Routray

-VERSUS

1. Union of India represented through its General Manager, E.co.Railway, Chandrasekharpur, Bhubaneswar, Dist-Khurda
2. Divisional Railway Manager, East Coast Railway, Khurda Road Division, At/PO/PS-Jatni, Dist-Khurda
3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Division, At/PO/PS-Jatni, Dist-Khurda
4. Senior Divisional Mechanical Engineer, East Coast Railway, Khurda Division, At/PO/PS-Jatni, Dist-Khurda

...Respondents

By the Advocates:Mr.T.Rath

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**ORDER**

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

This O.A. has been filed by the Applicant challenging the order of rejection and reversion dated 11.10.2010 & 12.10.2010 by the Asst. Personnel Officer on behalf of the Sr. Divl. Personnel Officer (Resp No.3) under annexure A/12 and A/13 respectively and accordingly, a prayer has been made to quash the above two orders, besides to pass any other order as this Tribunal deems fit & proper in the interest of justice. In a nut shell,

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13

the case of the Applicant is that he joined as Assistant Loco Pilot in the erstwhile South Eastern Railway on 06.02.1993. While working as such, he was promoted to the post of Loco Pilot w.e.f. 13.02.2003. Meantime, Respondent No.3 issued notification inviting applications for filling up of the post of Loco Inspector in the scale of pay of Rs.6500-10500/- in Mechanical Department of East Coast Railway. Fulfillment of three years foot plate experience was one of the conditions provided in the advertisement. The vacancies were notified to be filled up through positive act of selection. Be that as it may, Applicant got selected and promoted to the post of Loco Inspector in the scale of Rs.6500-10500/- (RSRP) vide order under Annexure-A/8 dated 19<sup>th</sup> May, 2008. However, while working as such, Respondents issued show cause notice of reversion under Annexure-A/9 dated 12.05.2010. But instead of submitting his show cause, the applicant approached this Tribunal in OA No. 294 of 2010. For the reasons recorded in the order dated 3<sup>rd</sup> June, 2010 this Tribunal disposed of the said OA with liberty to the applicant to file his show cause within a period of thirty days and it was also ordered that pending consideration and communication of the reply on the show cause reply of the applicant, there should be no reversion of the applicant for the post of Loco Inspector. Applicant submitted his reply under Annexure-A/11. Respondents rejected the representation and communicated the reason of rejection to the applicant along with the order of reversion under Annexure-A/12 & A/13 which orders have been assailed by the applicant in this Original Application and sought to be quashed being baseless, illegal, arbitrary and without due application of mind. His contention is that if the applicant did not have the three years foot plate experience as to how his application could be forwarded with necessary certification by his authority.

2. Respondents have strongly opposed the prayer of the Applicant. Their stand is that on being transferred from Waltair Division, the Applicant joined in the Khurda Road Division, on 25.01.2005. The Applicant initially joined as Assistant Loco Pilot on 06.02.1993 at Garden Reach, Kolkata and posted to Waltair Division and the training received during such period has got no relevancy for promotion to the post of Loco Inspector. By placing

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14

reliance on Annexure-R/1 in which it has been provided that the candidate should have at least three years combined foot plate experience as LP (G)-II/LP(G)-I/LP(P) II/LP(P)I/LP (M&E) it has been stated that as the applicant does not have even a single day's experience of running the train as Loco Pilot (G) and had all through worked in the capacity of Loco Pilot (G) II in stationery post of DPC after this posting under Annexure-A/1 as evidenced from Annexure-R/2, the applicant was not even eligible to appear at the test. Further stand of the Respondents is that the recommendation while forwarding his application was inconsequential in view of the letter under Annexure-R/2 in which it has been stated that the applicant does not possess practical experience of driving the train even for a day after becoming Loco Pilot (Goods). Hence the Respondents' stand is that there was no illegality in the order of reversion and as such it has been prayed that this OA being devoid of any merit is liable to be dismissed.

3. The Applicant has filed rejoinder to the counter in which he has tried to justify his selection to the post of Loco Inspector. Further his contention is that stationary duties performed by the applicant due to administrative interest can be taken as foot plate experience so as to make him eligible to hold the post in question. In support of the above he has relied on the decision of the Chandigarh Bench of the Tribunal dated 28<sup>th</sup> January, 2004 in OA No. 553/2003 upheld by the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 14403 of 2004 disposed of on 3<sup>rd</sup> March, 2005 and by the PB in OA No. 1669 of 2005 upheld by the Hon'ble Delhi High Court in WP (C) No. 8515-17/06 and confirmed by the Hon'ble Supreme Court.

4. Learned Counsel appearing for respective parties have reiterated the stand taken in their respective pleadings.

5. The whole issue now boils down as to whether the applicant was having three years foot plate experience at the time of his selection to the post of Loco Inspector and if not whether detailing the applicant to perform stationary duties on administrative interest could be construed as foot plate experience so as to annul the order of reversion under Annexure-A/13. We may state that while the Respondents disputing the possession of three

years foot plate experience at the time of the selection of the applicant, in paragraph 3 of their counter, they have admitted that the applicant was working in stationary duty post on administrative interest all along. In this regard we have perused the orders of the Chandigarh Bench relied on by the Applicant. The Applicants before the Chandigarh Bench were also deprived of their chance for promotion to the Loco Inspector on the ground that they did not have three years foot plate experience, as required under the Rules as the applicants were working on a stationery job. The Chandigarh Bench of the Tribunal allowed the prayer of the Applicants. Relevant portion of the order of the Chandigarh Bench of the Tribunal is quoted herein below:

“...In any case, the post of Loco Inspector is a selection post for which the candidates are required to appear in a written test and viva voce. In case the applicants reach the required merit vis-à-vis other candidates, only then they would be appointed to the post. Merely by counting their experience on the post of Power/Crew Controller, they would not be finally selected for the post. Taking into consideration the facts and circumstances of the case, we are of the view that the tenure of the applicants on the post of Power/Crew Controller, cannot be excluded for the purpose of counting three years foot plate experience required for the post of Loco Inspectors, especially when they were retaining their lien on the post of Drivers Goods.”

6. The above order has been upheld by the Hon'ble High Court of Punjab and Harayana. No contrary decision has been shown by the Respondents' Counsel nor has it been brought to the notice any evidence that the above order has been reversed by the higher forum. For the reasons stated above we have no hesitation to quash the impugned orders of rejection of the representation of the applicant under Annexure-A/12 & reversion under Annexure-A/13 by following the law laid down by Their Lordships of the Hon'ble Apex Court in the case of **Sub Inspector Roopal and others vrs. Lt. Governor through Chief Secretary Delhi and others**, (2000) 1 SCC 644 in which it has been held by the Apex Court that the precedents are to be followed by the Tribunal unless contrary law shown by the party.

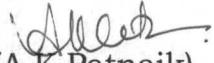
16

7. For the reasons discussed above, the impugned orders dated 11.10.2010 & 12.10.2010 by the Asst. Personnel Officer on behalf of the Sr. Divl. Personnel Officer (Resp No.3) under annexure A/12 and A/13 respectively, are liable to be quashed and accordingly, the same are quashed.

Ordered accordingly.

7. In the result, this OA stands allowed. No costs.

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

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

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