

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

OA No. 665 of 2010
Cuttack, this the 22nd day of August, 2012

CORAM

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

.....
Gobardhan Mohanty @ Mishra, aged about 58 years, Son of Late Narayan Mohanty, At/Po.Jakhapura, Dist. Jajpur at present working as J.E-II/C/P.Way/SBP under Deputy Chief Engineer (Construction) I, Sambalpur, At/Po/Dist.Sambalpur.

....Applicant

By legal practitioner -M/s. C.A.Rao,S.K.Purohit
S.K.Behera,P.K.Sahoo,
Counsel.

-Versus-

- (1) Union of India represented by the General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
- (2) Chief Administrative Officer (Con.), East Coast Railway, Bhubaneswar, Dist. Khurda.
- (3) Chief Personnel Officer, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
- (4) Senior Personnel Officer (Con.), East Coast Railway, Bhubaneswar, Dist. Khurda.

....Respondents

By legal practitioner-Mr.B.K.Mohapatra, ASC

O R D E R

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

The case in brief is that on receipt of the report of the Committee, the CAO/Con/BBS vide order dated 26.6.2005 rejected the prayer of the applicant for antedating his date of regularization to 01-04-1973. The said order of rejection was challenged by the Applicant in OA No. 429 of 2006. Respondents, by filing reply, contested the case of the Applicant. However, after considering the arguments, pleadings and materials placed on record by

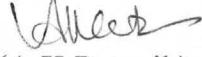
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the respective parties and by placing reliance on the order of this Tribunal rendered in similar case filed by Lingaraj V UOI and others dated 04-12-2008 in OA No. 187 of 2005, this Tribunal while quashing the order of rejection dated 26-06-2005 of the prayer of the applicant for antedating his date of regularization to 01-04-1973 remitted the matter back to the Respondents for reconsidering conferment of the benefit under the S.E.Railway instruction dated 26.4.1989 on the applicant within a period of sixty days from the date of receipt of copy of the order. Respondents in compliance of the order of this Tribunal 04-12-2008 in OA No. 187 of 2005 considered but rejected the case of the applicant in letter communicated in letter under Annexure-10 dated 16.2.2009. This has again been challenged by the Applicant in this OA with prayer to quash the letter of rejection in Annexure-10 and direct the Respondents to act on the recommendation of the Constituted Committee and regularize the applicant against PCR post w.e.f. 1.4.1973. The crux of the objection of the Respondents is that the applicant did not fulfil the yardstick/condition provided in the instruction and that his case is different from the case of Shri Lingaraj, hence the prayer of the applicant was rejected and reason of rejection was communicated to him.

2. Learned Counsel appearing for both sides reiterated the stand taken in the respective pleadings and having heard them at length we have perused the documents, order of this Tribunal dated 04-12-2008 in OA No. 187 of 2005 and the decisions of the Hon'ble High Court of Orissa in the cases of **Subodh Chandra Debanath vs. Union of India and others**, 2006 (I) OLR

10
812 & Rabinarayan Sahu, Forest Range Officer of Soroda Range & Others,
2008 (II) OLR 592.

3. We do not feel it necessary to go to the depth of the matter as we find that the applicant stood on similar footing as that of Lingaraj. After quashing the order of rejection the matter was remitted back to the Respondents for reconsidering antedating of regularization. The fact remains that Lingaraj was granted the benefit in similar circumstances. But the case of the applicant was rejected on the ground which is not sustainable in the eyes of law as held by the Hon'ble High Court of Orissa in the case of Subodh Chandra Debanath (supra). It is expected of "the State" that none of its actions should be discriminatory and violative of the fundamental rights envisaged in the Constitution. In view of the above the rejection letter communicated in Annexure-10 dated 16.2.2009 is hereby quashed and the Respondents are directed to act on the recommendation of the Constituted Committee and grant him the benefit as has been granted to Shri Lingaraj within a period of 90(ninety) days from the date of receipt of copy of this order. With the aforesaid observation and direction this OA stands disposed of. There shall be no order as to costs.


(A.K. Patnaik)
Member (Judicial)


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