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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A No. 142 of 2009

Cuttack, this the 15th day of February, 2011

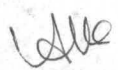
Nilamani MishraApplicant


-v-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not?
2. Whether it be circulated to Principal Bench, Central Administrative Tribunal or not?


(A.K.PATNAIK)
Member(Judl)


(C. R. MOHAPATRA)
Member (Admn.)

CENTRAL ADMINISTRATIVE TRIBUNAL
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Cuttack, this the 15th day of February, 2011

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

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Nilamani Mishra, aged about 61 years, son of Late Narayan Mishra, Retired Senior Clerk/Head Clerk cum Vehicle in charge in the office of the Deputy CE/Genl/East Coast Railway, Bhubaneswar, Dist. Khurda at present residing at Aparna Nagar, Chauliaganj, Radhalane, At/Po/Dist. Cuttack.

.....Applicant

By legal practitioner: M/s.C.A.Rao,S.K.Behera,A.K.Rath Counsel

-Versus-

1. Union of India represented by the General Manager, East Coast Railway, At/Po.Chandrasekharpur, Bhubaneswar-751 023, Dist. Khurda.
2. Chief Accounts Officer (Construction), East Coast Railway, Chandrasekharpur, Bhubaneswar-751 023, Dist. Khurda.
3. P.C.E. (Civil), East Coast Railway, Chandrasekharpur, Bhubaneswar-751 023, Dist. Khurda.
4. Chief General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar-751 023, Dist. Khurda.
5. Deputy CE (P), East Coast Railway, Chandasekharpur,Bhubaneswar, Dist. Khurda.
6. ADEN/Sett (HQ), East Coast Railway, Chandrasekharpur, Bhubaneswar-751 023, Dist. Khurda.

.....Respondents

By legal practitioner: Mr.S.K.Ojha, SC

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ORDER

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

Undisputed fact of the matter is that the applicant, while working as Sr. Clerk/Head Clerk Cum Vehicle in charge under the Respondents/in the office of the Deputy Chief Engineer (Construction), ECoRly, on attaining the age of retirement retired from service w.e.f. 31.10.2007. After more than fifteen months of his retirement since he has



not been paid some of his retirement dues by filing this OA he seeks reliefs as under:

“(ii) After hearing the parties be pleased to pass an order directing the Respondents to make immediate arrangement for taking over the left over charges from the applicant and to pay the DCRG and compensation for withholding complementary Railway pass, compensation towards daily up and down journey expenses with wages/salary from Cuttack to Chandrasekharur from the date of retirement as claimed in paragraph 5.4 and other dues with compoundable interest within a specified time fixed by this Tribunal.

2. In the counter filed in this case the stand taken by the Respondents is that some materials are still with the applicant and he is not handing over the same in spite of repeated calls. Vide letter dated 03.07.2007, the applicant was called upon by the office of the AEN/Settl./HQ/ECOR/BBS to hand over the charges of the materials lying with him to a person nominated by the office. But the Applicant as avoided to do so without any reason and except two school buses, kept all the materials with him even after his retirement. Therefore, no option was left for the concerned office except to withhold some of the benefits with an intention for adjustment of the shortfall, if any noticed after handing over the charge by the Applicant. On 7.5.2009 the applicant refused to hand over the charges unless and until the present matter is disposed of by this Tribunal. The Respondents have further stated that the administration is eagerly waiting for taking over the charges of the materials under the custody of the applicant. Therefore, this Tribunal may fix a particular date directing the applicant to hand over the charges on

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that date to avoid any further complication. After such handing over step would be taken to grant the benefits as due and admissible to him under the Rules.

3. Applicant filed rejoinder stating therein that he has already handed over all the materials and there remains nothing lying with him justifying the action of the Respondents to withhold his statutory dues after retirement.

4. Considered the arguments of the Learned Counsel for the Applicant and counter arguments of the Respondents Counsel and perused the materials placed on record. It is not for this Tribunal to decide at this stage which were the materials handed over to the applicant possession of which has not been handed over before or after his retirement. It is between the Applicant and Respondents to decide with reference to records. At the same time we deprecate the action of the Respondents in sitting over the DCRG amount and other retirement dues, (which the Respondents were under obligation to release within the specified period provided in the Rules), for such a long time. If the applicant failed in any manner to hand over the charge, the Respondents instead of keeping quiet over the issue should have taken adequate measures known to Rules and law.

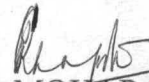
5. Be that as it, may since it is the prayer of the applicant to pass an order directing the Respondents to make immediate arrangement for taking over the left over charges from the applicant and to pay the

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DCRG and compensation for withholding complementary Railway pass and the Respondents raised no objection on the above prayer, and already considerable time has elapsed in releasing the statutory dues to the Applicant, the Respondents are hereby directed to release the withheld DCRG etc. dues, to which the Applicant is entitled to under the Rules, within a period of 45(forty five days) from the date of receipt of copy of this order; during which period the Respondents are free to complete all formalities of handing/taking over if not completed so far. Be it noted that failure to release the dues within the above period, shall invite penal interest to be paid to the Applicant on the arrears dues and such amount may be recovered from the officer(s) responsible for the delay. With the aforesaid observation and direction this OA stands disposed of. No costs.



(A.K.PATNAIK)
MEMBER (JUDL)



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