

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O. A. NO. 862 OF 2010

Cuttack this the 14<sup>th</sup> day of March, 2014

CORAM

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

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

Laxmidhar Nayak,  
aged about 62 years,  
Son of Late Krushna Chandra Nayak,  
Of Village-Baral Pokhari, P.S./Dist-Bhadrak,  
Retired Junior Trackman,

...Applicant

(Advocates: M/s. S.B. Jena, S. Behera)

VERSUS

Union of India Represented through

1. General Manager,  
East Coast Railway,  
Rail Vihar,  
Chandrasekharpur,  
Bhubaneswar-23, Dist-Khurda.
3. Divisional Railway Manager (F),  
E.Co. Railways,  
Khurda Road,  
P.O. Jatni,  
Dist-Khurda.
3. The Senior Divisional Personnel Officer,  
E.Co. Railways,  
Khurda Road,  
P.O. Jatni,  
Dist-Khurda.

... Respondents

(Advocate: Mr. T. Rath)



ORDER (ORAL)

A.K.PATNAIK, MEMBER (JUDL.):

Copy of this OA has been served on Mr. T. Rath, Ld. Standing Counsel appearing for the Respondents/Railways, who accepts notice for all the Respondents in this OA. Registry is directed to serve notice, in terms of sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987 for onward transmission. Heard Mr. S.B. Jena, Learned Counsel for the Applicant and Mr. T. Rath, Ld. Standing Counsel appearing for the Respondents/Railways and perused the materials placed on record.

2. This Original Application has been filed by the Applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking for a direction to the Respondents to treat him as regularly absorbed from 1983 and accordingly direct the Respondents to grant all retrial benefits. Mr. Jena submitted that the applicant has preferred a representation on 07.07.2009 to the Divisional Railway Manager (P), E.Co. Railways, Khurda Road (Respondent No.2) but till date no response was received by him.

On the other hand, Mr. Rath vehemently opposed the maintainability of the O.A. on the ground of delay by stating that when the applicant was in service he had never raised this point as to why his service was not regularised and at such distance place of time the records may not be available in the office. Hence the O.A. being hit by law of limitation is liable to be dismissed.




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3. Mr. Jena, on the above point, stated that maintaining the records of an employee is the duty of the Department. Delay cannot be a ground to destroy the records.

4. However, taking into account the submissions made by the Ld. Counsel for both the parties as well as keeping in mind the age of the applicant (66 year), as agreed to by Sri Jena without expressing any opinion on the merit of the case, we dispose of this O.A. at the admission stage by directing Respondent No.2 to consider the representation of the applicant dated 07.07.2009 (if the same has been received and is still pending) and communicate the result thereof, in a well reasoned order to the applicant, within a period of 60 days from the date of receipt of copy of this order. We make it clear that if the applicant is found to be entitled to the aforesaid benefits then the same may be disbursed to him within a period of 90 (ninety) days from the date of such consideration. However, we make it clear that if in the meantime said representation has already been disposed of then the result thereof be communicated to the applicant within two weeks from the date of receipt of copy of this order. No costs.

5. Copy of this order be transmitted to Respondent No. 2 by Speed Post at the cost of the applicant, for which Mr. Jena, Ld. Counsel for the applicant, undertakes to file the postal requisites by 20.03.2014.

  
(R.C.MISRA)  
MEMBER (Admn.)

  
(A.K.PATNAIK)  
MEMBER (Judl.)