

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A No. 45 of 2011

Cuttack, this the 11<sup>th</sup> day of January, 2012

Prafulla Kumar Behera .... Applicant  
Versus  
Union of India & Others .... Respondents

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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O R D E R

Heard the Applicant who has appeared in person and

Ms.S.L.Patnaik, Learned Counsel appearing for the Respondent-  
Railway and perused the materials placed on record.

2. Applicant who is a M.V. Driver of East Coast Railway and presently posted under the Senior DFM, ECORly, KUR has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 seeking multiple reliefs and on being pointed out the Applicant, on the date of admission, has fairly confined his relief contained in paragraph 7(i) of the OA which is quoted herein below:

“Issue direction to give effect to the promotion of the applicant as M.V.Driver, Gr.I w.e.f. 01.11.2005 as appealed by the applicant vide his appeal dt. 05.07.2006 (Annexure-5/A) in terms of Estt. Serial No. 273/64 Circular No. P/R/14/257 dt. 01.10.64 (Annexure-A/27) which was actually effected from 24.11.2006 due to capricious way of functioning of the Respondents whereby the applicant has been forced to loss his monetary benefits by one year.”

3. Respondents filed their counter in which it has been stated that the applicant has claimed time bound promotion to the post of Technician (Tech.) (MV Driver) Gr. I w.e.f. 1.11.2005 as he

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has completed two years service in the post of Tech MV Driver II in terms of circular under Annexure-A/27. But as a matter of fact the applicant is not under any control with the administration for time bound promotion. The applicant cannot in any stage seek any promotion in a time bound manner. Promotion is awarded after fulfilling all the formalities, terms and conditions namely selection procedure etc. as per rules. Estt. Sl.No. 273/64 of circular No. P/R/14/257 dated 1.110.1964 never speaks for any time bound promotion. The circular rather clarifies the position for allowing promotion to the employees who have not been promoted due to administrative error and faced loss in seniority and pay. In the said Estt. Serial it has been clarified that the staff who have lost promotion on account of administrative errors, should on promotion be assigned correct seniority vis-à-vis their juniors already promoted irrespective of the date of promotion. The Applicant was not deprived of his promotion at any stage and none of his juniors has been promoted earlier to him due to any administrative error. Thus, the clarification vide Estt. Srl.No. 273/64 is not applicable to the case of the Applicant. One cannot claim promotion as a matter of right merely because the employee concerned has fulfilled the conditions for promotion. Hence while opposing the prayer of the applicant the Respondents have prayed for dismissal of this OA. By filing rejoinder the applicant has more or less reiterated the stand taken in the OA.

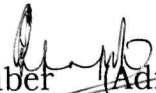
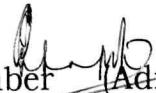
4. The Applicant submitted that in the above view of the matter direction may be issued to the Respondents to pay him his OT, TA&DA for his extra work as per Rules. It is seen tht the

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Respondents in letter under Annexure-R/1 dated 20.07.2010 have advised the applicant to exercise the option for drawal of either OTA or DA (TA) w.e.f. 12.3.2008 as per extant rules under RBE No. 32/2008 dated 26.3.2008 and CPO/ECoR/BBS's Lr.No.ECoR/Pers/NG-Bills dt.11.12.2008. In view of the above while declining grant of the relief as claimed in paragraph 7(i) of the OA, liberty is granted to the applicant to submit application consolidating his claim of TA/DA etc. with reference to the letter under Annexure-R/1 and the Respondents are hereby directed to consider such claim of the applicant as per Rules and pay him his entitled dues within a period of sixty days from the date of receipt of the aforesaid claim.

With the above observation and direction this OA stands disposed of. No costs.

  
Member (Judl.)

  
Member  (Admn.)