

22
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 894 of 2011
Cuttack, this the 14th day of September, 2015

Pinakdhar Samantaray Applicant
Versus
Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not?
2. Whether it be referred to PB for circulation?


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (Judl.)


CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 894 of 2011
Cuttack, this the 14th day of September, 2015

CORAM
HON'BLE SHRI A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE SHRI R.C.MISRA, MEMBER (ADMN.)

.....

Pinakdhar Samantaray,
aged about 56 years,
S/o Late Chakradhar Pradhan,
At present working as Junior Booking Clerk,
Bhubaneswar Railway Station, E.Co.Rly.,
At/PO- Bhubaneswar, Dist- Khurda.

...Applicant

(Advocates: M/s. B.S.Tripathy, M.K.Rath, J.Pati, M.Bhagat)

VERSUS

Union of India Represented through its

1. General Manager,
East Coast Railway, Rail Vihar,
At/PO-Chandrasekhpur,
Bhubaneswar, Dist-Khurda.
2. Divisional Railway Manager,
East Coast Railway,
Khurda Road,
At/PO/Dist- Khurda.
3. Additional Divisional Railway Manager,
East Coast Railway,
Khurda Road,
At/PO/Dist- Khurda.



4. Senior Divisional Commercial Manager,
East Coast Railway,
Khurda Road,
At/PO/Dist- Khurda.
5. Divisional Commercial Manager,
East Coast Railway,
Khurda Road,
At/PO/Dist- Khurda.

... Respondents

(Advocate: Mr. S.K.Ojha)

.....

O R D E R (ORAL)

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

The Applicant, who is working as a Junior Booking Clerk in Bhubaneswar Railway Station of East Coast Railway, has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985 challenging and impugning the order No. SDCM/Con/Vig-04/05 dated 22.12.2011 issued by the Respondent No.3 calling upon the applicant to show cause within a period of fifteen days from the date of receipt of such notice as to why the penalty of "Compulsory Retirement" shall not be imposed on him for his gross misconduct and lack of integrity.

2. The Respondents have filed their counter opposing the prayer of the applicant and praying that this OA being devoid of any merit is liable to be dismissed.

Whee

3. We find that on 4th January, 2012 this matter was listed for consideration on the question of admission and grant of interim order as prayed for by the applicant and this Tribunal while admitting this OA, in so far as interim order is concerned, have ordered as under:

“It is seen from Annexure-A/5 dated 22.11.2011 that the Additional Divisional Railway Manager, Khurda Road (Revising Authority) has given an opportunity to the applicant to show cause as to why the penalty of compulsory retirement shall not be imposed on him. For this purpose 15 days time was allowed to the applicant to submit his representation against the proposed penalty. It appears from the MA 10/2012 that the applicant has not submitted the representation within the time stipulated i.e. 15 days from 22.12.2011.

In view of the fact that the applicant wants to file his representation and has accordingly, sought our direction to allow him to do so, we grant 15 days time from today to submit his representation against the proposed penalty. **Accordingly, we direct the Respondents to accept the representation if submitted by the applicant within 15 days from today and consider the same before proceeding any further in the matter.** During this period of 15 days no coercive action shall be taken against the applicant.

In view of the above, the prayer for interim relief for staying the operation of show cause notice dated 22.12.2011 at Annexure-A/15 does not survive anymore.” (Emphasis is ours)

4. The Applicant, as it appears, challenged/impugned the aforesaid order of this Bench in WP (C) No. 662 of 2012 before the



Hon'ble High Court of Orissa in which, the Hon'ble High Couirt of Orissa vide order dated 19.01.2012 while directing the other side to file counter affidavit, if any, in MC No. 503 of 2012 was pleased to direct as under:

"19.1.2012 - As an interim measure, it is directed that no coercive action shall be taken against the petitioner pursuant to **Annexure-5 dated 22.12.2011** passed by the **Revisonal Authority** for compulsory retirement without leave of this Court till the next date.

Urgent certified copy of this order be granted on proper application."

(Emphasis is ours)

5. Upon hearing learned counsel for both sides we have perused the materials placed in support of the averments made by the respective parties. We have also gone through the order passed by the Hon'ble High Court of Orissa, referred to supra. The Learned advocates' appearing for both sides do not dispute that the aforesaid Writ Petition is still pending for adjudication before the Hon'ble High Court of Orissa. However, by reiterating the stand taken in the OA, the Learned Counsel for the Applicant sincerely prays for this Tribunal to grant the relief claimed in this OA. We find that the direction of the Hn'ble High Court of Orissa is to that "no coercive action shall be taken against the petitioner pursuant to **Annexure-5 dated 22.12.2011** passed by the **Revisonal Authority** for



compulsory retirement without leave of this Court". In view of the specific order of the Hon'ble High Court of Orissa, any decision at this stage on this matter will amount to usurping the authority of the Hon'ble High Court of Orissa. With this observation, this OA is disposed of. No costs.


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


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

RK