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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 57 of 2009
Cuttack, this the 6th day of May, 2011

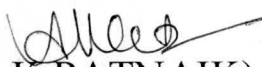
Nalini Ranjan Samantara Applicant


-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
CUTTACK BENCH, CUTTACK

O.A No. 57 of 2009

Cuttack, this the 6th day of May, 2011

CORAM:

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

A N D

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

Nalini Ranjan Samantara, aged about 50 years, Son of Dhaneswar Samantara at present working as Deputy Station Superintendent, Gopalpur, East Coast Railway, Balikuda, Dist. Cuttack.

.....Applicant

By legal practitioner: M/s.P.K.Mohapatra, S.K.Nath, Counsel.

-Versus-

1. Union of India represented through its General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist.Khurda.
2. Additional Divisional Railway Manager, East Coast Railway, Khurda Road Division, At/Po.Khurda Road, Dist.Khurda.
3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, Division, At/Po/Dist. Khurda.

....Respondents

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

O R D E R

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

The prayer of the Applicant in this Original Application is to direct the Respondents to promote him to the post of Station Superintendent with effect from the date when his juniors were

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promoted by correcting his placement in the seniority list right from the cadre of S.M. and thereby quashing the order dated 5.12.2008 as at Annexure-A/11.

2. Respondents opposed this prayer of the Applicant in their counter filed on 15th July, 2009 after serving copy thereof on the other side. Respondents' contention is that the applicant while working as Assistant Station Master at Matagajpur (ASM/MTND) was removed from service on account of his involvement in an accident case vide Sr.DOM Khurda Order No. A1/5/96/Pt.3 dated 24.10.1997. On appeal he was reinstated in service w.e.f. 08.06.1998 with stoppage of Annual increment (A.1) for a period of 03 years with loss of seniority reducing his pay to the minimum in the time scale of ASM and treating the intervening period from 25.10.1997 to 07.06.1998 as dies-non vide Sr. DPO/KUR's Lr.No. 35/98 dated 09.06.1998. Before his removal from service, he was found suitable for promotion to the post of Station Master. However his result was withheld due to pendency of major penalty charge sheet and finally he has undergone the punishment of


stoppage of AI for 01 year w.e.f. 1.10.2001. The period of punishment ended w.e.f. 01.10.2002. Then his result for promotion to the post of Station Master was published vide O.O.No.24/2003 dated 30.04.2003 and thereafter his promotion order was issued on 30.04.2003. Accordingly his seniority position was re-cast showing his name between Shri Kalidas Pattnaik and Debdulal Biswas who were the immediate juniors as well as senior to the Applicant in ASM category. Consequently, in the seniority list of SM category published as on 1.10.2004, his position was placed at Sl.No.84 i.e. between the above two employees. Based on the seniority position in SM category, the applicant was called for selection to the post of Deputy Station Superintendent (Dy.SS.). He was declared suitable vide order dated 31.5.2007 and accordingly was promoted vide order dated 28.6.2007. None of the persons in his batch declared suitable for the post of Dy.SS has been called to appear at the SS selection because of their in-eligibility for the said post. The selection process to SS has not yet been finalized. It has been stated by the Respondents that the result of the selection process


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for the Station Master held on 21.1.1997 in so far as the applicant is concerned, could not be published due to pendency of major penalty proceedings. After he was freed from punishment w.e.f. 1.10.2002, his result for promotion to the post of ASM was declared on 30.4.2003 and he was promoted vide order dated 30.4.2003. With the present relief, the applicant had earlier approached this Tribunal in OA No. 471 of 2008. This Tribunal disposed of the matter on 27.11.2008 directing the Respondents to consider and dispose of the pending representation of the applicant. In compliance of the order of this Tribunal the representation of the applicant was disposed of vide order dated 18.12.2008 and the same was communicated to the applicant by Regd. Post/AD. But the same was returned with postal remarks 'addressee is always absent'. Thereafter, the order was sent through a special messenger to the applicant which he received on 06.03.2009. The rejection of the representation has not been challenged by the applicant in this OA by filing any amendment. As such, besides on merit, the

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Respondents have prayed for dismissal of this OA on the ground of not impugning the order of rejection of his representation.

3. After considering the rival submission of the parties and upon perusal of the materials placed on record including the documents filed in course of hearing by Mr. Ojha, Learned Counsel appearing for the Respondents, we hold that the applicant was rightly promoted to the post of Station Master vide order dated 30.4.2003 w.e.f. 01.10.2002 i.e. after expiry of the period of punishment instead of from the date when his juniors were promoted. We, therefore, find no merit in this OA. This OA is accordingly dismissed. There shall be no order as to costs.


(A.K.PATNAIK)
Member (Judicial)


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