

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.294 of 2010

Biswa Ranjan Mishra Applicant
-Versus-
Union of India & Ors. Respondents

1. Order dated: the 3rd June, 2010.

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

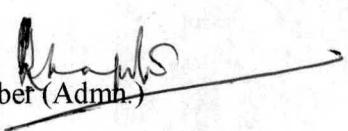
.....
Applicant is at present working as Loco Inspector, ECoRly, Angul. According to the Applicant he was selected and promoted to the said post of Loco Inspector after being found suitable through a positive act of selection vide Annexure-A/8 dated 19th May, 2008. However, after continuing in the promotional post for a long time, Respondents issued a show cause notice to the Applicant under Annexure-A/9 asking the applicant to file his reply as to why he should not be reverted for the reasons mentioned therein. It is the case of the Applicant that such show cause notice issued to him with determination to revert the applicant that too without taking note of the actual position of the matter and the commendations received by him meanwhile. Hence without filing his reply to the show cause he has approached this Tribunal in the present OA seeking to quash the notice under Annexure-A/9. Heard Learned Counsel for the Applicant and Mr. S.K.Ojha, Learned Standing Counsel for the Respondents appearing on notice. Mr. Ojha, Learned Standing Counsel objected to the maintainability of this OA being premature. I also agree with the Learned Standing Counsel for the Respondents that when the applicant was issued with show cause notice in compliance of the principles of natural justice, the Applicant should have furnished his reply pointing out the grounds taken in this OA. In a plethora of judicial pronouncements the Hon'ble Apex Court deprecated entertaining an OA against the show cause

L

4

notice without availing of the opportunity by way of preferring reply by a Government Servant. However, at this stage it is submitted by Learned Counsel for the Applicant that he may be given opportunity to make his reply to the show cause notice under Annexure-A/9 within a period of thirty days and at least pending consideration of his reply Respondents may be directed not to revert the Applicant from his present post. This was agreed to by Learned Standing Counsel for the Respondents. In view of the above, this original Application is disposed of at this admission stage with liberty to the Applicant to submit his reply to the notice under Annexure-A/9 to the Respondent No.3 within a period of thirty days hence and pending consideration and communication of the decision to the applicant, there shall be no reversion of the applicant from the post of Loco Inspector. I also make it clear that while considering the reply to be submitted by the Applicant, Respondent No. 3 shall also take note of the averments made in this OA.

Send copies of this order along with copies of the OA to all the Respondents by SPEED POST at the cost of the applicant; for which Learned Counsel for the Applicant undertakes to furnish the postal requisites by 04.06.2010.


Member (Admh.)