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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O. A. No. 260/00797 OF 2016
Cuttack, this the 20th day of December, 2016

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

Pramod Kumar Chandan, aged about 43 years, S/o- Late Cheru Chandan, At-Khujenpali, P.S.-Bolangir Sadar, Dist-Bolangir, Ex.Sr. Trolleyman, East Coast Railway, Bolangir under the Asst. Divisional Engineer, Bolangir, At/P.O/Dist-Bolangir.

...Applicant
(By the Advocate-M/s. P. K. Mohapatra, S. K. Nath, S.C. Sahoo)

-VERSUS-

Union of India Represented through

1. General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Divisional Railway Manager, East Coast Railway, Sambalpur Division, Sambalpur, At/PO/District-Sambalpur.
3. Senior Divisional Engineer (DEN)/Track, East Coast Railway, Sambalpur, At/PO/District-Sambalpur.
4. Assistant Divisional Engineer, E.Co.Rly., Bolangir, At/PO/District-Bolangir.

By the Advocate- (Mr.T. Rath)

...Respondents

ORDER (ORAL)

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

Heard Mr. P.K. Mohapatra, Ld. Counsel appearing for the applicant and Mr. T. Rath, Ld. Standing Counsel appearing for the Respondents-Railways, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 challenging the illegal action of Respondents in not reinstating him in service.
3. The factual matrix of the case is that the applicant is an Ex. Sr. Trolleyman. Due to his mental illness, he remained on leave from 12.12.2005. However, being not cured, he underwent treatment in Ranchi Manasika Arogyasala since 14.01.2006. While he was under treatment

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at Ranchi, the Respondent No.4 in an ex-parte enquiry without following the due procedure of law, issued the order of removal from service. After fitness from mental illness, the applicant preferred an appeal before the Divisional Railway Manager, East Coast Railway, Sambalpur Division, against the order dated 14.11.2008 of his removal from service. When his case has not been considered, the applicant approached Respondent No.1 inter-alia elaborating all the facts and difficulties and further prayed to reinstate him in service taking into account his more than 12 years of services. Ld. Counsel for the applicant submitted that till date no consideration has been made against his representation. Being aggrieved, the applicant has filed this O.A. with the following prayer(s):-

- “(i) To direct the Respondents to consider the grievances of the applicant as elaborated in his appeal petition under Annexure-A/3 for reinstatement in service within a stipulated period and thereby quashing the order of punishment as a at Annexure-A/2 as the same has been passed without following the due procedure of law as well as principles of natural justice;
- “(ii) Pas such other order(s) or issue direction(s) as may be deemed fit and proper in the interest of justice.”

4. On the last occasion i.e., on 02.12.2016 after hearing the Ld. Counsels for both the sides the following order was passed:-

“ Heard Mr. P.K. Mohapatra, Ld. counsel appearing for the applicant and Mr. T. Rath, Ld. Standing Counsel appearing for the Respondents-Railways. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayer(s):-

“ (i) To direct the Respondents to consider the grievances of the applicant as elaborated in his appeal petition under Annexure-A/3 for reinstatement in service within a stipulated period and thereby quashing the order of



punishment as at Annexure-A/2 as the same has been passed without following the due procedure of law as well as principles of natural justice;

Mr. Mohapatra submitted that ventilating his grievance the applicant has made a comprehensive representation dated 08.10.2015 (Annexure-A/4) to Respondent No.1 and in the meantime, already more than one year has been elapsed. On the other hand, Mr. Rath prayed for time to seek instruction regarding the status of the said representation dated 08.10.2015 (Annexure-A/4) to Respondent No.1. The prayer is allowed. Accordingly, list this matter for admission on 16.12.2016.

2. Copy of this order be made over to Mr. Rath by 03.12.2016."

5. Today Mr. Rath submitted that he has instruction that no such appeal/representation has been preferred by the applicant as the same is not available with the Department. On perusal of record I also could not find the said representation. Mr. Rath vehemently opposed the very maintainability of this O.A. by stating that the applicant has never raised this point and therefore, in all practical purposes no departmental remedy has been availed of by the applicant. Therefore, this O.A. is liable to be dismissed being hit by Section 20 of the AT Act and Rules.

6. However, on being questioned Mr. Mohapatra fairly submitted that it is an inadvertent mistake on the part of the applicant and prayed to grant liberty to the applicant to make a comprehensive representation to General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Respondent No.1 with copy to Respondent Nos.2 & 3 within a period of 15 days and a time may be stipulated for disposal of the same.

7. I do not think it will prejudice to either of the parties if the O.A. is allowed to be withdrawn with a liberty to the applicant to make a comprehensive representation to Respondent No.2 with copy to

[Signature]

Respondent Nos.2 &3 within a period of 15 days. But I also cannot close my eyes on the order dated 14.11.2008. Therefore, I have not expressed any opinion regarding the delay and that aspect is also left to the Appellate Authority to decide as per Rules. However, taking into account the submission of Mr. P.K. Mohapatra, Ld. Counsel appearing for the applicant, I allow this O.A. to be withdrawn with a liberty to the applicant to make a comprehensive representation to Respondent No.1 with copy to Respondent Nos.2 & 3 within a period of 15 days ventilating all his grievance by annexing a copy of this order and if any such representation is preferred to the Respondent No.1 within 15 days from today, then Respondent No.1 shall consider and dispose of the same as per rules and regulations and communicate the result thereof by way of a reasoned and speaking order within a period of 45 days from the date of receipt of the order.

8. Though I have not expressed any opinion on the merits of the matter, still then it is made clear that if after such consideration the grievance of the applicant is found to be genuine, then expeditious steps be taken by the Respondents to redress the grievance of the applicant within a further period of two months from the date of such consideration.

9. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.

10. Applicant is at liberty to annex the copy of this order along with his appeal/representation to Respondent No.1


(A.K. Patnaik)
Judicial Member