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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00845 OF 2016
Cuttack, this the 30th day of November, 2016

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

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Sri Gonna Manga Raju, aged about 44 years, S/o Late G. Pothi Naidu, Plot No. 331, Gajapati Nagar, Near Saibaba Temple, PO-Jatni, Khurda, working as Loco Pilot (Goods) in the East Coast Railways.

...Applicant

(By the Advocate-M/s. B. Dash, C. Mohanta)

-VERSUS-

Union of India Represented through

1. Secretary (Establishment), Ministry of Railways, Railway Board, New Delhi.
2. General Manager, East Coast Railway, Rail Bhawan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
3. Senior Divisional Personnel Officer, East Coast railway, Khurda Road, PO-Jatni, Dist-Khurda.
4. Sr. Divisional Electrical Engineer(OP), Khurda Road, East Coast Railway, Dist-Khurda.
5. Divisional Railway Manager, East Coast Railway, Khurda Road, Dist-Khurda.
6. Bishnu Charan Sethi
7. D. Jayapal
8. S. Venkateswar Rao
9. Bibhas Das
10. Jogeswar Behera
11. Santosh Ku. Ram
12. Shiba Prasad Behera
13. Eda Prakasam
14. Chitrasen Naik
15. Jatindranath Murmu
16. Muralidhar Nayak
17. Baidhar Singh
18. Santosh Ku. Singh
19. Alekh Ch. Naik
20. Saroj Ku. Naik
21. Bimal Ekka.

Respondent No. 6 to 21 are working as Loco Pilots (Goods) in East Coast Railway, Khurda Road, Jatini, Dist-Khurda under Respondent No. 4.

...Respondents

(By the Advocate- Mr. T.Rath)



ORDER (Oral)

A.K.PATNAIK, MEMBER (J):

Heard Mr. B.Dash, Learned Counsel for the applicant, and Mr. T.Rath, Learned Standing Counsel for the Respondent-Railways, on whom a copy of this O.A. has already been served and perused the records.

2. Applicant is presently working as Loco Pilot (Goods) under the Respondent-Railways. His grievance is directed against the reservation in the matter of promotion to the grade of Loco Pilot (Passenger). In this connection he has assailed Memorandum dated 16.08.2016 (A/1) by virtue of which results of suitability test for promotion to the post of Loco Pilot (Passenger) with the prescribed benchmarking has been announced. The main thrust of the O.A., according to applicant, is that RBE No.126/2010 came to be issued by the Railway Board on 1.9.2010 in the matter of reservation in promotion – treatment of SC/ST candidates promoted on their own merit, based on the instructions of the DOP&T, which *inter alia* clarified that “SC/ST candidates appointed by promotion on their own merit and seniority and not owing to reservation or relaxation of qualification will be adjusted against unreserved points of reservation roster, irrespective of the fact whether the promotion is made by selection method or non-selection method. Over and above, it has been contended by the applicant that as per the decision of the Hon’ble Supreme Court reservation cannot be extended to reserved category candidates in promotion unless and until it is held that their representation in service is inadequate and therefore, without adhering to the principles so decided by the Hon’ble Supreme Court and the RBE No.126/2010, respondents are taking

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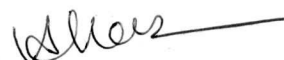
steps to place the matter before the DPC for promotion to the post of Loco Pilot (Passenger) consequent upon the result as announced vide A/1 to the O.A.

3. It reveals from the record that ventilating his grievance, applicant has submitted a detailed representation dated 20.10.2016 (A/5) to the Senior Divisional Personnel Officer, E.Co.Railways (Res.No. 3) and since he has not yet received any reply, he has approached this Tribunal for redressal of his grievance. He has also prayed that the order under Annexure-A/1 may not be given effect to in respect of candidates from Sl. No. 46 to 61.

4. Mr. T.Rath, Ld. Standing Counsel for the Railways, vehemently opposed the grant of any interim relief. He submits that the RBE No. 117/2016 dated 30.09.2016 provides as under:

“In view of the above assurance, received from the Ld. Solicitor General of India, it is advised that Railway Board’s RBE No. 126/2010 dated 01.09.2010, is held in abeyance with immediate effect till further advice, and all further promotions of reserved category persons to unreserved posts will now be made by ignoring Railway Board’s RBE No. 126/2010 dated 01.09.2010 which in turn was based upon the DOP&T’s OM dated 10.08.2010 & under reference No. (i) & (ii) above. However, all promotions order henceforth shall be subject to outcome of the main SLPs and the above mentioned contempt petition which are still pending.”


5. Since representation as aforesaid is stated to be pending, at this stage, I am not inclined to direct notice to the respondents to file their counter. In view of this, without expressing any opinion on the merit of the matter, I would dispose of this O.A. at the stage of admission itself with direction to Respondent No.3 to consider the representation at A/5 to the O.A., if the same has been received and is pending consideration, in accordance with extant rules



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and instructions on the subject and communicate the decision thereon to the applicant within a period of sixty days from the date of receipt of this order. It is, however, made clear that all the points raised in the representation are kept open to be considered by Res.No.3. It is further directed that if the applicant is found to be entitled to the claims made by him in his representation, the same be extended to him within a further period of two months from the date of communication of the decision. However, it is directed that no further action shall be taken in pursuance of Memorandum 16.08.2016 (A/1) for a period of one month from the date of communication of decision to the applicant on his representation.

6. With the above observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.
7. On the prayer made by the learned counsel, copy of this order along with paper book be sent to Respondent Nos. 2 and 3 by Speed Post at the cost of the applicant for which Mr. B.Dash undertakes to file the postal requisites by 06.12.2016.
8. Free copy of this order be made over to learned counsels for both the sides.


(A.K.PATNAIK)
MEMBER (J)