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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00245 of 2015
Cuttack, this the 8th day of May, 2015

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

.....
Shri Ashok Kumar Dutta,
aged about 59 years,
Son of Late Haripada Dutta,
Bandamunda, Sec. E, Qrs. No.273,
Rourkela-320 077,
Working as Sr. Tech (MCM)
Under Sr. DEE (Trs)/Bndm and
Under orders of reversion to Technician Grade I.

.....Applicant

Advocate(s).....M/s. A. Kanungo, C. Nayak, D. Panigrahy

VERSUS

Union of India represented through

1. General Manager,
South Eastern Railway,
Garden Reach,
Kolkata-20
2. The Chief Personnel Officer,
South Eastern Railway,
Chakradharpur Division,
Chakradharpur.
3. The Divisional Railway Manager,
South Eastern Railway,
Chakradharpur Division,
Chakradharpur.
4. The Senior Divisional Personnel Officer,
South Eastern Railway,
Chakradharpur.
5. The Senior Divisional Electrical Engineer (TRS),
South Eastern Railway,
Bandamunda.

W. Alag

6. Assistant Personnel Officer-I,
South Eastern Railway,
Office of the Senior Divisional Personnel Officer,
Chakradharpur.

..... Respondents

Advocate(s)..... Mr. T. Rath.

O R D E R (ORAL)

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

Heard Mr. A.Kanungo, Ld. Counsel for the Applicant, and Mr. T.Rath, Ld. Standing Counsel appearing for the Respondent-Railways, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. The instant O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, in which he has challenged the order of reversion issued to him vide order dated 24.03.2015 and has prayed to direct the Respondents to pay him all service and financial benefits in the grade of Sr. Tech (MCM). Mr. Kanungo submitted that before passing of order of reversion the applicant has not been granted any opportunity or show cause has ever asked to him. On being questioned whether the applicant has availed of the departmental remedy after issuance of the order dated 24.03.2015, Mr. Kanungo fairly submitted that the applicant has not availed of any such remedy and, therefore, he prayed this Tribunal to grant the applicant liberty to make an exhaustive representation to the concerned departmental authority, i.e. DRM, S.E.Railway, Chakradharpur Division (Respondent No.3) within a period of 10 days and till such time no coercive action be taken.

3. On the other hand, Mr. T.Rath, Ld. Standing Counsel for the Railways, vehemently opposed the contention made by Mr. Kanungo and submitted that in the case of Municipal Corporation of Delhi Vs Qimat Rai Gupta and Ors. reported in (2007) 7 SCC 309, the Hon'ble Supreme Court of India has categorically held that once an order is passed by an administrative authority it is deemed to have been

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implemented on that very day. Mr. Rath drew my attention to paragraph 28 of the said judgment which reads as under:

“An order passed by a competent authority dismissing a Government servant from services requires communication thereof as has been held in [See State of Punjab v. Amar Singh Harika- AIR 1966 SC 1313], but an order placing a Govt. servant on suspension does not require communication of that order. [See State of Punjab v Khemi Ram- AIR 190 SC 214]. What is, therefore, necessary to be borne in mind is the knowledge leading to the making of the order. An order ordinarily would be presumed to have been made when it is signed. Once it is signed and an entry in that regard is made in the requisite register kept and maintained in terms of the provisions of a statute, the same cannot be changed or altered. It, subject to the other provisions contained in the Act, attains finality. Where, however, communication of an order is a necessary ingredient for bringing an end-result to a status or to provide a person an opportunity to take recourse of law if he is aggrieved thereby; the order is required to be communicated.”

Mr. Rath further submitted that at the admission stage it is also not crystal clear if any show cause was issued to the applicant before passing order dated 24.03.2015 and, therefore, he strongly refuted the argument advanced by Mr. Kanungo and submitted that this Tribunal should not grant any interim order to the applicant at this stage of admission.

4. Taking into account the submission made by Ld. Counsels for the sides, I am of the view that if the applicant has not been offered any opportunity to show cause then he should have been provided the same by following the principals of natural justice and, accordingly, I grant liberty to the applicant to make an exhaustive representation to Respondent No.3, i.e. Divisional Railway Manager, S.E.Railway, Chakradharpur Division, within a period of 10 days from today and if such a representation is preferred then Respondent No.3 will consider and dispose of the same and communicate the result thereof in a well reasoned order to the applicant



within a period of one month from the date of receipt of the representation. However, the points raised by the applicant in his representation will be kept open for the authorities to consider the same as per the law and rules in force. I also make it clear that if any such representation will be made by the applicant within a period of 10 days then till disposal of the said representation status quo as on date in respect of continuance of the applicant will be maintained and no recovery will be made from the applicant. However, if the opportunity was already provided to the applicant before passing the order dated 24.03.2015 then this order will have no effect.

5. With the aforesaid observation and direction, this O.A. stands disposed of at the stage of admission itself. No costs.

6. On the prayer made by Mr. Kanungo, Learned Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent Nos. 2, 3 and 4 by Speed Post for which he undertakes to file the postal requisites by 12.05.2015.


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

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