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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00427 OF 2015

Cuttack, this the 7th day of September, 2016

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

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

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Jhunu Behera, aged bout 39 years, Widow of Late Sadananda Behera, resident of Palia, Chatrapur, PO-Chatrapur, Dist.-Ganjam, Odisha

.....Applicant

By the Advocate(s)-M/s. N.R. Routray, Smt. J. Pradhan, S. Sarkar, T.K. Choudhury, S.K. Mohanty.

-Versus-

Union of India, represented through

1. General Manager, East Coast Railway, Rail Sadan, Chandrasekhapur, Bhubaneswar, Dist-khurda.
2. Divisional Engineer (South), E.Co.Rly., Khurda Road Division, At/PO-Jatni, Dist-khurda.
3. Asst. Divisional Engineer-cum- Disciplinary Authority, E.Co.Rly., At/Po-Barhampur, Dist-Ganjam.

.....Respondents

By the Advocate(s)- Mr. S. K. Ojha

ORDER(Oral)

A.K.PATNAIK, MEMBER (J):

Heard Mr. N.R. Routray, Ld. Counsel appearing for the Applicant and Mr. S.K. Ojha, Ld. Panel Counsel appearing for the Respondent-Railways, and perused the records.

2. This Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 challenging the order of punishment of "Removal from Railway Service which shall not be disqualification for future employment under the Govt. or the Administration".

3. The factual matrix of the case is that the husband of the applicant was initially appointed as Casual Gangman on 13.06.1997 and was brought over to regular establishment on 03.12.1997. Thereafter he was promoted to the post of Head Trackman on 05.04.2005. On 29.12.2009 he was served with a

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memorandum of charges. Thereafter on 27.03.2010 he submitted his defence brief to the Disciplinary Authority. On 03.04.2010 the Disciplinary Authority being not satisfied with the defence statement issued the speaking order of 'Removal from service which shall not be disqualification for further employment under the Govt. or Administration'. Thereafter, on 23.04.2010 he submitted his mercy appeal to Respondent No.3 for his reinstatement. In response to this on 24.04.2010 Respondent No.3 & Disciplinary Authority was pleased to impose the punishment of "Removal from Railway Service which shall not be disqualification for future employment under the Govt. or the Administration". Thereafter, the husband of the applicant died on 11.07.2010. On 19.08.2010 the widow of the deceased Govt. employee (the present applicant) submitted the death certificate and legal heir certificate before SSE/P.Way/East Coast Railway/BAM for release of the death-cum-financial benefit of her deceased husband. Thereafter, on receiving the information from SSE and other papers under RTI Act on 30.03.2015 the applicant submitted her appeal to Respondent Nos.1 & 3 and a reminder on 12.05.2015. In response to this on 18.05.2015 Respondent No.2 intimated the applicant non receipt of her appeal dated 30.03.2015. Thereafter, on 23.05.2015 the applicant submitted a detailed application along with copy of appeal dated 30.03.2015 to Respondent No.2. In response to this on 11.06.2015 Respondent No.2 finally intimated the applicant for submission of her appeal to Respondent No.1.

4. The case was admitted and notices were issued on 20.07.2015. After filing of Counter & Rejoinder the case was listed for hearing on 09.08.2016. For further hearing of this matter again it was listed on 16.08.16 but due ^{to} resolution passed by the CAT Bar Association, Cuttack none of the

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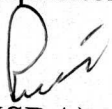
parties appeared hence the matter was adjourned to 23.08.16. As there was no Division Bench on 23.08.16 ultimately the matter was adjourned to today for further hearing.

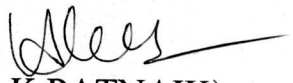
5. After hearing in extenso Mr. Routray brought to our notice that the applicant wants that if a direction will be issued to Respondent No.1 i.e., General Manager, East Coast Railway, Bhubaneswar to consider her pending representation dated 30.03.2015 (Annexure-A/11) she will be satisfied. Mr. Ojha, submitted that if any such representation has been filed and is still pending consideration then it will not cause any prejudice to either of the sides if direction is given to consider the representation.

6. Accordingly, taking into account such submission made by Ld. Counsel for the applicant that the representation is stated to have been made and is still pending consideration with Respondent No.1, without going into the merit of the matter, we dispose of this O.A with a direction to Respondent No.1 that if any such representation dated 30.03.2015 (Annexure-A/11) has been preferred by the applicant and is still pending consideration before him then the same may be considered and disposed of and result be communicated to the applicant by way of a reasoned and speaking order within a period of six weeks from today. Though we have not expressed any opinion on the merit of the matter, all the points raised in representations are kept open for the authorities to consider as per Rule still then, it is made clear that if in the meantime, the said representation has already been disposed of then the result of the same be communicated to the applicant within a period of two weeks from the date of receipt of copy of this order.

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7. With the aforesaid observation and direction, the O.A. is disposed of at the stage of admission itself. No costs.
8. On the prayer made by Mr. N.R. Routray, Learned Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent Nos.1, 2 & 3 by Speed Post for which he undertakes to file the postal requisites by 14.09.2016.


(R.C.MISRA)
MEMBER (A)


(A.K.PATNAIK)
MEMBER(J)

K.B.