

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.260/0080 of 2015
Cuttack, this the 26th day of February, 2015

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

.....
Bipin Bihari Pattnaik,
Aged about 57 years,
Son of Late Jadumani Pattnaik,
Presently working as Station Superintendent,
Kaluparaghata Railway Station, Dist-Khurda.

.....Applicant

Advocate(s)... Mr. B.S.Tripathy-I.

VERSUS

Union of India represented through

1. General Manager,
East Coast Railway,
Bhubaneswar, Dist- Khurda.
2. Divisional Railway Manager,
East Coast Railway,
Khurda Road, Dist-Khurda.
3. Sr. Divisional Commercial Manager,
East Coast Railway,
Khurda Road, Dist-Khurda.

..... Respondents

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

.....

O R D E R (ORAL)

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

Heard Mr. B.S.Tripathy-I, Learned 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.

A.K.PATNAIK, MEMBER (JUDL.)

2. Applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:

“(i) quash the order dated 02.02.2015 under Annexure-7 holding the same to be bad and illegal and confiscatory in nature.

(ii) Pass any other order.....”

3. The applicant is presently working as Station Superintendent, Kaluparaghata Railway Station. In this O.A. he has challenged the legality of the order of the competent authority communicated through letter No. 1724 dated 02.02.2015 whereby an amount of Rs 10,005/- is sought to be recovered from the salary of the applicant in two equal installments towards alleged non-availability of Obsolete Printed Card Tickets (PCTs, in short).

4. Mr. Tripathy-I, Ld. Counsel for the applicant submitted that the order of recovery is arbitrary and malafide as those PCTs were obsolete since 2009 and the applicant is in no way responsible for non-availability of such obsolete PCTs. Mr. Tripathy further submitted that before issuing the order of recovery, no notice has been served on the applicant. It is the case of the applicant that ventilating his grievance he has made a mercy appeal to the Sr. Divisional Commercial Manager (Respondent No.3) on 28.08.2014 and without considering the same order of recovery of Rs. 10,005/- has been passed on 02.02.2015 vide Annexure-A/7, in which the authorities have stated that they have decided to recover the amount of Rs. 10,005/- in two equal installments.

5. On the other hand, Mr. T. Rath, Ld. Standing Counsel for the Railways, by drawing our notice to the instruction received by him vide letter dated 25.02.2015 submitted that the recovery of Rs. 10,005/- is wholly justified.



On perusal of the record, we find that in the order dated 02.02.2015, no whisper has been made regarding consideration of the mercy appeal dated 28.08.2014. We also find that before issuing order of recovery, which has a prejudicial effect, no notice has been issued to the applicant calling upon him regarding the proposed recovery. However, a duty was cast on the authorities to at least consider the mercy appeal dated 28.08.2014, before ordering such recovery. Therefore, *prima facie*, we are satisfied that the order of recovery has been issued in a perfunctory manner. In view of this, we are of the considered view that admission of this O.A. would unnecessarily prolong the litigation and, therefore, we hereby quash the order dated 02.02.2015 at the stage of admission itself with direction to Respondent No.3, to consider and dispose of the mercy appeal, if at all preferred by the applicant on 28.08.2014, and communicate the decision thereof to the applicant by way of a well reasoned order within a period of 45 days from the date of receipt of this order. Ordered accordingly.

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

7. As prayed for by Mr. Tripathy-I, Ld. Counsel for the applicant, copy of this order, along with the paper book, be transmitted to Respondent No. 3 by Speed Post at the cost of the applicant, for which he undertakes to furnish the postal requisites by 03.03.2015.


(R.C.MISRA)
MEMBER(Admn.)


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