

CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O. A. No. 260/125 OF 2016

Cuttack, this the 16th day of March, 2016

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

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

Swapneswar Panda, aged about 28 years, S/o Satyanaryan Panda, At present working as Helper -II, in the office of SSE(C & W) Puri and residing at Plot No. EWS-60, Srikhetra Colony, At/Po/Dist.- Puri

.....Applicant

By the Advocate(s)-M/s. B.P. Das, N. Biswal, S.N. Das, Deepak Kumar.

-Versus-

Union of India represented through:

1. Secretary, Ministry of Railways, New Delhi-110001.
2. East Coast Railways, represented through its General Manager, having its office at Chandrasekharpur, Town-Bhubaneswar, Dist-Khurda.
3. Divisional Railway Manager (Personal), Khurda Road Division, East Coast Railway, At/Po/Dist.- Khurda.
4. Assistant Personal Officer (Traffic), Khurda Road Division, East Coast Railway, At/Po/Dist.- Khurda.

Respondents.

By the Advocate(s) - Mr. T. Rath

OR D E R (ORAL)

A.K.PATNAIK, MEMBER (J):

Heard Mr. B.P. Das, 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 with the following prayer:-

“i) To direct the respondents specifically the respondent No.3 & 4 to decide upon the objections filed by the applicant against the provisional seniority list dated 23.12.2015 published in the notice board of the office of Senior Coaching Depot on 03.02.2016 under Annexure-4 of the present application;

ii) To quash the office order dated 04.02.2016 under Annexure-3 of the present application wherein direction was issued to the trade test officer to conduct trade test in accordance to the provisional seniority list dated 23.12.2015.”

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3. Mr. Das, Ld. Counsel for the applicant submitted that while the applicant was discharging duties as a temporary worker he appeared for the Screening Test for regular absorption. Thereafter he was declared successful for the regular absorption on 09.06.2010. Subsequently through another O.M. No.77/10, the effective date of regular absorption of the applicant was declared as 10.08.2010. While he was continuing as such on 23.12.2015 a provisional seniority list was prepared by Respondent No.3 wherein it was specifically stated that representations if any on the seniority dispute be submitted to the office within 30 days from the date of publication of the seniority list. Thereafter, the applicant filed his representation against the said provisional seniority list on 08.02.2016 before the DRM(P), Khurda Road Division, East Coast Railway i.e., Respondent No.3. Mr. Das further submitted that before expiry of 30 days period the respondents issued another letter dated 04.02.2016 directing the trade officer to conduct trade test for giving promotion to the post of Technical Grade III (Fitter against 50% Departmental Promotion Quota) which is not proper as the provisional seniority list is yet to be finalized and the objection period of the said provisional seniority is yet to expire. At this juncture, basing upon the said provisional seniority list the action taken by the respondents No.3 & 4 to conduct trade test for departmental promotion examination is not proper. Hence, Mr. Das further submitted that the applicant apprehends that due to improper fixation of seniority list he may be deprived of his promotion. Mr. Das further submits that due to non-consideration of the case of the applicant for the aforesaid relief as claimed by him, the applicant submitted representation dated 08.02.2016 Annexure-D/1 to Respondent No.3. It has further been submitted that till date no response has been received by the applicant on his representation. Hence, the applicant has filed this O.A. with the prayer as aforesaid.

4. Since the representation submitted by the applicant is stated to be pending, we do not feel proper to keep the matter pending at this instant stage, accordingly, without entering into the merit of this case, we dispose of this O.A at the stage of admission by directing Respondent No.3 to consider the representation dated 08.02.2016 Annexure-D/1, if the same is still pending, as per the extant Rule and communicate the result thereof to the applicant by way of a reasoned/speaking order within a period of two

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months from the date of receipt of copy of this order. If, after such consideration it is found that the applicant is entitled to the relief claimed by him then the same may be extended to him within a further period of 03 (three) months from such consideration. Though we have not expressed any opinion on the merit of the matter, we make it clear that all the points raised in the representation will be kept open for the Respondents to consider the same as per rules, regulations and law in force. However, 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.

5. However, we make it clear that any promotion basing on the Trade Test will be subject to the result of consideration of representation.

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

7. On the prayer made by Mr. B.P. Das, Ld. Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent No.3 by Speed Post for which Mr. Das undertakes to file the postal requisites by 21.03.2016.

7. Free copy of this order be made over to Mr. T. Rath, Ld. Standing Counsel appearing for the respondents-Railways.


(R.C.MISRA)
MEMBER (A)


(A.K.PATNAIK)
MEMBER(J)

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