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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.155 of 2016
Cuttack this the 28th day of October, 2016

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

Smt.Pramila Behera, W/o. late Simadri Behera, aged about 57 years, presently residing at Sanakusastali, PO-Badakusastali, PS- Gopalpur on Sea, Dist-Ganjam

...Applicant

By the Advocate(s)-Mr.P.K.Pattnaik

-VERSUS-

Union of India represented through:

1. The General Manager, East Coast Railway, Odisha, Bhubaneswar
2. Senior Divisional Personal Officer, Khurda Road Division, East Coast Railway, At/PO-Jatni, Dist-Khurda, Odisha, PIN-752 050
3. Aurobinda Behera, S/o. late Simadri Behera, presently working as Ticket Collector, under Khurda Road Division, East Coast Railway, Staying at/PO/PS-Puri, Odisha

...Respondents

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

ORDER(Oral)

A.K.PATNAIK, MEMBER(J):

Heard Mr.P.K.Pattnaik, learned counsel for the applicant and Mr.T.Rath, learned Standing Counsel appearing for the Respondents on the question of admission and perused the records. In this Original Application under Section 19 of the A.T.Act, 1985, applicant has sought for the following relief as well as interim relief.



"...to direct respondent no.3 through respondent no.2 to deduct and pay half of the monthly salary amount of respondent no.3 to the applicant for her maintenance and also maintenance of her two dependent daughters in pursuance of his undertakings given as per the terms and conditions of his service as aforesaid and in case the OP No.3 fails to pay half of the salary amount then his services may be terminated as per law or such other alternative reliefs may be granted to the applicant protecting the services of the OP No.3 permissible under law primarily to save the life of both the applicant and her the only son OP No.3 according to law in the best interest of justice".

"As an interim relief, it has been prayed that pending final decision in the above case, this Hon'ble Court may be pleased to pass interim order directing the OP No.2 under supervision of OP No.1 to take immediate steps to pay monthly a sum of Rs.10,000 (Rupees Ten thousand only) towards maintenance of the applicant and her two dependent daughters out of the monthly salary payable to OP NO.3 by the Office of the OP No.2 till final disposal of applicants above case".

2. Mr.T.Rath vehemently opposed the very maintainability of this O.A. on the following grounds.

- i) Provision of Section 20 of the A.T.Act, 1984 has not been complied with by the applicant by ventilating her grievance before the appropriate authorities.
- ii) Legal notice sent to the son under intimation to the authorities cannot be said that the applicant has exhausted the departmental remedies.
- iii) This Tribunal lacks jurisdiction to direct the respondent-authorities for payment of sums to the applicant by recovering from the salary of res.no.3, who has been appointed on compassionate grounds.



3. I am very much satisfied with the submissions made by Mr.Rath that the instant O.A. in the present form is not maintainable. When pointed out, Mr.Patnaik very fairly submitted that he may be permitted to withdraw this O.A. with liberty to the applicant being granted to submit a representation to res.no.2 and accordingly, a direction may be issued to the said respondent to dispose of the representation. I do not think that this will be prejudicial to the interest of either of the parties. In view of this, the O.A. is disposed of as withdrawn by granting liberty to the applicant that she may submit a representation to res.no.2 within a week hence and in case any such representation is received within a week hence, the same shall be considered by res.no.2 as per the extant rules and instructions and decision thereon communicated to the applicant within a period of two months from the date of receipt of such representation. However, applicant is at liberty to annex copy of this order to the representation to be preferred by her to res.no.2. No costs.


(A.K.PATNAIK)
MEMBER(J)

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