

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O. A. No. 260/00187 OF 2015
Cuttack, this the 4th day of April, 2015**

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

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Sri Gunanidhi Mohanty, aged about 41 years, S/O- Bishnu Charan Mohanty, C/O-Sudarsan Jena of Hat Bajar, PO/PS-jatni, Dist- Khurda-752050.

.....Applicant

(Advocate: M/s. B. Dash, C.Mohanta, S.N. Mishra)

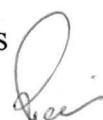
VERSUS

Union of India Represented through

1. The Secretary (Establishment), Ministry of Railway, Railway Board, New-Delhi.
2. General Manager, East Coast Railway, Rail Bhawan, Chandrasekharpur, Bhubaneswar Dist-Khurda.
3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road, PO-Jatni Dist-Khurda.
4. Bijaya Kumar Behera, Loco-Pilot (Goods), Khurda Road Division, East Coast Railway PO-Jatni, Dist-Khurda.
5. Chandan Mondal, Loco-Pilot (Goods), Talcher, East Coast Railway, AT/ PO/PS- Talcher, Dist-Anugul.
6. Srinivas Behera, Loco-Pilot (Goods), Talcher, East Coast Railway, AT/ PO/PS- Talcher, Dist-Anugul.
7. Arun kumar Behera, Loco-Pilot (Goods), Talcher, East Coast Railway, AT/ PO/PS- Talcher, Dist-Anugul.
8. Nirmal Behera, Loco-Pilot (Goods), Talcher, East Coast Railway, AT/ PO/PS- Talcher, Dist-Anugul.
9. Gadadhar Sethi, Loco-Pilot (Goods), Paradeep, East Coast Railway, AT/ PO/PS- Paradeep, Dist-Dist-Jagatsinghpur.
10. Ram Singh, Loco-Pilot (Goods), Talcher, East Coast Railway, AT/ PO/PS- Talcher, Dist-Anugul.
11. Bishnu Ch Sethy, Loco-Pilot (Goods), Talcher, Anugul,East Coast Railway, AT/ PO/PS/Dist-Anugul.
12. Chitrasen Naik, Loco-Pilot (Goods), Keonjhar,East Coast Railway, AT/ PO/PS/Dist- Keonjhar.
13. D.jayapal, Loco-Pilot (Goods), drafted and posted as Crew Controller at Puri, East Coast Railway, AT/PO/PS/Dist-Puri.
14. S.Venkateswar Rao, Loco-Pilot (Goods), Khurda Road , East Coast Railway AT/PO/PS-Jatni, Dist-Khurda.
15. Jatindranath Murum, Loco-Pilot (Goods), Keonjhar,East Coast Railway, AT/ PO/PS/Dist- Keonjhar
16. Muralidhar Nayak, Loco-Pilot (Goods), Talcher, East Coast Railway, AT/ PO/PS- Talcher, Dist-Anugul.
17. Baidhar Singh, Loco-Pilot (Goods), Khurda Road , East Coast Railway, AT/PO/PS-Jatni, Dist-Khurda.

... Respondents

(Advocate: Mr. T. Rath)



ORDER (Oral)

R.C. MISRA, MEMBER (A)

Heard Mr. B. Dash, 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. By drawing my attention Mr. Dash submitted that on earlier occasion though O.A. No.613/2015 was filed by the similarly placed persons the same was dismissed vide order dated 16.09.2015 on the ground of non-joinder of party. Mr. Dash brought to my notice that thereafter those similarly placed applicants had filed O.A. No.652/2015 making all the candidates party respondents who were likely to be affected. Since the representation of the applicants was pending before the Authorities, the aforesaid O.A. was disposed by this Tribunal vide order dated 09.11.2016 with a direction to the Respondent No.3 to consider the representation as per extant Rules and regulation and communicate the result thereof by way of a reasoned and speaking order within 60 days from the receipt of the order and in the event the applicants are found entitled, then the benefits may be extended within a further period of three months. Further, this Tribunal directed not to take any further action pursuant to order dated 21.08.2015 so far as the private respondents are concerned till disposal of the representation and communication of the result thereof. Mr. Dash further submits that though the present applicant is continuing as Loco Pilot (Goods) as that of the applicants in O.A. No. No.652/2015 and is eligible to be promoted to the next higher post but without considering his case, the Respondents have acted in a malafide way by considering the case of pretty juniors for promotion simply because they belong to the Schedule Caste and Schedule Tribe category. Hence, before approaching

this Tribunal in this present O.A. the applicant had also made a comprehensive representation dated 23.02.2016 (Annexure-A/3) to Respondent No.3 but till date no reply has been received from the Respondents-Department.

3. On the other hand, Mr. Rath submitted that the present O.A. is now in the shape of Public Interest Litigation and this should not be entertained by the Tribunal as the applicants have not come with clean hands.

4. However, after perusal of the documents annexed to this O.A. as well as the pleadings, I find that the earlier O.A. No. 652/2015 has been disposed of vide its order dated 09.11.2016 with a direction to concerned authorities to dispose of the representation. As I also find that in this O.A. applicant has approached this Tribunal after making representation, in the first instance I would like to give liberty to Respondent No.3 to consider and dispose of the representation dated 23.02.2016 (Annexure-A/3) submitted by the applicant if it is pending. Accordingly, without entering into the merit of this case, I dispose of this O.A at the stage of admission by directing Respondent No.3 to consider the representation dated 23.02.2016 (Annexure-A/3) as per the extant Rules and regulation and communicate the result thereof to the applicant by way of a reasoned/ speaking order within a period of sixty days from the date of receipt of copy of this order. I hope and trust, 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 I have not expressed any opinion on the merit of the case, I make it clear that all the points raised in the representation will be kept open for the Respondent No.3 to consider the same as per rules, regulations and law in force. However, it is made clear that if the said representation dated 23.02.2016 (Annexure-A/3) has

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already been disposed of then the result of the same may be communicated to the applicants within a period of 15 days.

5. Though I dispose of this O.A. at the admission stage I feel it proper to direct the Respondents not to take any further action in pursuance of order dated 21.08.2015 (Annexure-A/2) so far as the Private Respondents are concerned till a decision on the representation is communicated to the applicant.

6. In the result, the O.A. is disposed of at the stage of admission itself. No costs.

7. On the prayer made by Mr. Dash, Learned 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. Dash undertakes to file the postal requisites by 07.04.2016. 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)

K.B.