

3

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O. A. No. 260/00188 OF 2016
Cuttack, this the 4th day of April, 2015

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

1. S. Nageswara Rao, aged about 39 years, S/O-S. Surya Narayana, C/O-Balaram Biswal of Near Saraswathi Niwal, Bachhara Patna, PO/PS-Jatni, Dist-Khurda-752050.
2. Sri Niranjan Mohapatra, aged about 46 years, S/O- Judhistir Mohapatra, C/O-Mahesar Sahu of Rice Merchant Vivekananda Street, Raja Bazar, PO/PS-jatni, Dist- Khurda.

.....Applicants
(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. Muralidhar Nayak, Loco-Pilot (Goods), Talcher, East Coast Railway, AT/ PO/PS- Talcher, Dist-Anugul.
5. Baidhar Singh, Loco-Pilot (Goods), Khurda Road Division, East Coast Railway PO-Jatni, Dist-Khurda.

... Respondents
(Advocate: Mr. T. Rath)

ORDER (Oral)

R.C. MISRA, MEMBER (A)

Heard Mr. B. Dash, Ld. Counsel appearing for the Applicants 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. M.A. No.219 of 2016 for joint prosecution is allowed. Accordingly, M.A. is disposed of.

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 candidate party respondents who were likely to be affected. Since the representation of the applicants was pending

(See)

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 applicants are continuing as Loco Pilot (Goods) as that of the applicants in O.A. No. No.652/2015 and are eligible to be promoted to the next higher post but without considering their cases, 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 applicants 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. applicants have 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 applicants 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 applicants 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 applicants are entitled to the relief claimed by them then the same may be extended to them 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 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 applicants.

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)