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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00198 OF 2016

Cuttack, this the 19th day of May, 2016

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

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

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Kedar Kumar Nayak, aged about 34 years, S/O- Nishakar Nayak, Tech. Grade-I,
Electric Loco Shed, Angul, East Coast Railway, At/PO/PS/Munsifi/Dist-Angul.

.....Applicant

By the Advocate(s)-M/s. J.K. Rath, D.N. Rath, P.K. Rout.

-Versus-

Union of India, represented through

1. Secretary, Railway, New Delhi.
2. General Manager, East Coast Railway, Rail Sadan, At/PO/PS-
Chandrasekharpur Munsifi-Bhubaneswar, Dist-Khurda.
3. Divisional Railway Manager, Khurda Road Division, At/PO-Khurda Road,
PS/Munsifi Dist-Khurda.
4. Sr. Divisional Personnel Officer, East Coast Railway, Khurda Road
Division, At/PO-Khurda Road, PS/Munsifi Dist-Khurda.
5. Gopal Saha, Sr. Tech. in the office of the Electric Loco Shed, Angul, East
Coast Railway, At/PO/PS/Munsifi/Dist-Angul.
6. Shambhu Paswan, Sr. Tech. in the Office of the Electric Loco Shed, Angul,
East Coast Railway, At/PO/PS/Munsifi/Dist-Angul.

.....Respondents

By the Advocate(s)- T. Rath

ORDER(Oral)

A.K.PATNAIK, MEMBER (J):

Heard Mr. J.K. Rath, Ld. Sr. Counsel assisted by Mr. P.K. Rout, 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:-

“ In view of the facts and circumstances stated
above, the Hon'ble Tribunal may kindly be pleased to admit
the Original Application and issue notices to the respondents
and after hearing the parties, be pleased to quash the
promotions of the Juniors of the applicant, i.e. respondent Nos.
5 and 6 as has been given vide Annexure-A/5 to the Original
Application.

And this Hon'ble Tribunal be pleased to direct the
respondents to grant promotion to the applicant to the post of Sr.
Tech as the applicant comes within the number of posts of Sr.
Tech to be filled up, having his position is at Sl. No. 40 in the
seniority list of Tech. Grade-I.

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And pass any other order/orders as deemed fit and proper in the facts and circumstances of the case.”

3. On the other hand, Mr. T.Rath, Ld. Standing Counsel for the Railways, by drawing our attention to the different provisions of CAT Act and Rules vehemently opposed the very maintainability of this O.A. He submitted that when the applicant himself has not ventilated his grievance before the appropriate authority, this O.A. is not maintainable.

4. On being questioned as to whether the applicant has moved before the authorities and has filed any representation before the appropriate authority, Mr. Rath, Ld. Sr. Counsel submitted that the applicant has not ventilated his grievance before the appropriate authority and therefore, prayed liberty of this Tribunal to file an exhaustive representation before the Respondent No.3 within a period of two weeks from receipt of copy this certified order.

5. Accordingly, this O.A. is disposed of by giving liberty to the applicant to make a comprehensive representation, annexing the documents as he feels proper, to Respondent No.3 within a period of two weeks after receipt of the certified copy of this order, if any such representation is preferred within two weeks from receipt of copy this certified order, then the said Respondent No.3 is directed to consider and dispose of the said representation and pass a reasoned and speaking order within a period of two months from the date of receipt of the representation as per the rules and regulations in force keeping in mind the applicability of the documents, which the applicant would annex to his representation. Although, we have not expressed any opinion on the merit of the case, we make it clear that if after such consideration the applicant is found to be entitled to the relief claimed by him then expeditious steps be taken

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within a further period of three months from the date of such consideration to extend the said benefits to him.

6. With the aforesaid observation and direction this O.A. is disposed. No costs.

7. Applicant is at liberty to annex a copy of this order along with his representation.


(R.C.MISRA)
MEMBER (A)


(A.K.PATNAIK)
MEMBER(J)

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