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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application No. 260/00393 of 2016
Cuttack, this the 7th day of June, 2016

**CORAM
HON'BLE SHRI R.C.MISRA, MEMBER (ADMN.)**

.....
K. Bhagavati Rao,
aged about 49 years,
S/o K.Appa Rao,
At present working as
SSE/Tele/ECoR/Rail Sadan/HQ/BBS,
resident of Flat No. E-105,
Sriram Vihar Appt Nilakantha Nagar,
Nayapalli BBSR-12, Dist- Khurda, Odisha.

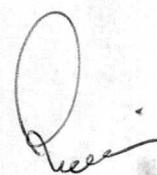
...Applicant

(Advocates: M/s. N.R.Routray, T.K.Choudhury, S.K.Mohanty, Smt. J.Pradhan)

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Union of India Represented through its

1. General Manager,
East Coast Railway,
E.Co.R.Sadan, Chandrasekharpur,
Bhubaneswar, Dist. Khurda.
2. Chief Personal Officer/
East Coast Railway,
Rail Sadan, Chandrasekharpur,
Bhubaneswar, Dist. Khurda.
3. Sr. Divisional Personal Officer/
East Coast Railway,
Khurda Road Division,
At/Po- Jatni, Dist. Khurda.



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(Advocate: Mr. T.Rath)

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... Respondents

ORDER (ORAL)

R.C.MISRA, MEMBER (ADMN.):

Heard Mr. N.R.Routray, Ld. Counsel for the Applicant, and Mr. T.Rath, Ld. Addl. Central Govt. Standing Counsel appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. Applicant has approached this Tribunal challenging the communication dated 21.3.2016 (A/7) in which the Sr. Personnel Officer, East Coast Railways has indicated to the President, East Coast Railway Shramik Congress that the competent authority has decided that a mandatory residency period of two years in the grade of Sr. Technicians should be maintained while processing the case of promotions to the posts of JE (Tele) and the erroneous promotions ordered by KUR Division in respect of the post of JE(Tele) against 30% DPQ will be reviewed as per extant rule and the seniority list of JE (Tele) is to be rectified. Subsequently, the Assistant Personnel Officer for Divisional Railway Manager(P), Khurda Road vide A/8 dated 20.05.2016 issued show cause notice to the applicant with regard to modification of effective date of promotion to the post of JE(Tele) in S&T Department of KUR Division. It is mentioned therein that the applicant was promoted to the post of JE vide office order dated 14.3.2012 and it was thereafter observed that he has been promoted to the post

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before completion of two years residency service as Sr. Technician (TCM). It was further decided that the minimum period of two years' residency period in the grade of Sr. Technician was mandatory for promotion to the post of JE against 30% DPQ as per the extant rules. In the above backdrop, it was communicated to the applicant that the effective date of his promotion to the post of JE(Tele) should be with effect from 09.12.2012, the date on which he had completed two years residency service as Sr. Technician and accordingly, if he has any representation to make, he should send such representation along with the supporting documents within a period of 15 day. In response to this letter, applicant has submitted his show cause on 31.5.2016 which is placed at A/9 of this O.A.

3. Mr.Routray pleaded that according to original notification eligibility criteria was that all incumbents in Sr. Technician in the scale of Rs.9300-34800/- were eligible and there was no mention regarding the minimum residency period of two years. Applicant has also shouldered the responsibility of higher post with effect from 16.3.2012 and according to him, it would not be just and proper at this stage to change the effective date of promotion to his prejudice, Mr.Routray added.

4. On the other hand, Mr.T.Rath, learned Standing Counsel submitted that the show cause has been submitted by the applicant on 31.5.2016 which might have just reached the Sr.Divisional Personnel Officer (res.no.3) for consideration and without giving a breathing time to take a decision, applicant



should not have rushed to the Tribunal and therefore, the O.A., according to Mr.Rath being premature is not maintainable.

5. I have considered the rival submissions. Apparently, ~~there is~~ no order exists as such within the meaning of Section19 of the A.T.Act by which applicant could be said ^{to be} a person aggrieved. In the instant case applicant having been asked to show cause, has submitted so only on 31.5.2016. Therefore, it goes without saying that the res.no.3 will consider the same as per the extant rules and instructions and take an appropriate decision in the matter. Only after the final decision is taken applicant has a right to approach the Tribunal, if by that order conditions of service are put to his disadvantage. ^{At} On this point, the Tribunal would not like to interfere in the matter. However, considering the submissions made by the applicant that the communication at A/7 is itself a wrong one and considering his apprehension that the respondents will confirm their view point as at A/7 while issuing their final order, at this stage, without expressing any opinion on the merit of the matter, I would direct respondent no.3 to consider and dispose of the show cause reply submitted by the applicant within a period of eight weeks from the date of receipt of this order under intimation to him.

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

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7. On the prayer made by the learned counsel, copy of this order along with paper book be sent to res.no.2 and 3 by Speed Post at the cost of the applicant, for which, Mr.N.R.Routray undertakes to file the postal requisites by 8.6.2016.

8. Free copy of this order be made over to learned counsel for both the sides.


(R.C.MISRA)
MEMBER (A)

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