

Admission Sl.No.08
O.A. No.414/16

Order dated 23rd June, 2016

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

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Heard Mr.D.K.Mohapatra, learned counsel for the applicant and Mr.T.Rath, learned Standing Counsel for the Respondents on the question of admission.

2. Applicant presently working as Accounts Assistant under the Financial Adviser and Chief Accounts Officer, East Coast Railway(res.no.3). He has approached this Tribunal being aggrieved by the issuance of Memorandum of Charge dated 25.5.2016. On perusal of the Articles of Charge, it appears that the main allegation leveled against the applicant is that he had managed to obtain his job by producing a certificate claiming to be a member of the Scheduled Caste community at the time of appointment.

3. Learned counsel for the applicant strenuously tried to convince the Tribunal that the Memorandum of Charge is *non est* in the eyes of law and therefore, the Tribunal should step in and quash the disciplinary proceedings initiated against the applicant.

4. On the other hand, Mr.Rath ~~by~~ opposed the prayer of the applicant specifically pointing out a document issued by the local Sarpanch on 11.5.2016 in which the applicant has been shown as the son of one Pradeep Kumar




2-

Behera, ^{and} ~~who~~ ^{is} the adopted son of one Govinda Behera belonging to UJIA by caste. Based on this, Mr. Rath submitted that there has been substantial ground to initiate disciplinary proceedings against the applicant and therefore, the Tribunal, at this stage, should not interfere in the matter.

5. I have considered the rival submissions at great length. In this case applicant has been issued with Memorandum of Charge dated 25.5.2016 wherein he has been instructed to submit his written statement of defence within ten days of the receipt of the Memorandum of Charge. During the course of hearing on admission, Mr. Mohapatra candidly submitted that some more time has been granted by the respondents to the applicant to file written statement of defence. Be that as it may, the fact of the matter is that applicant without submitting his written statement of defence to the Memorandum of Charge has approached the Tribunal. Applicant cannot be said to be a person aggrieved by the issuance of Memorandum of Charge as the same can ^{not} constitute an order within the meaning of Section 19 of A.C. Act, 1985. Viewed from this angle, it was incumbent on the part of the applicant to submit his written statement of defence to the concerned authorities without approaching the Tribunal in ^{not} ~~so~~ haste. In view of this, I am of the opinion that at this stage, applicant is in no way prejudiced by any order and/or action or inaction on the part of the respondents so as to give rise ^{to} a cause of action for approaching the Tribunal and therefore, the O.A. as laid is too premature.

6. On being pointed out, learned counsel for the applicant submitted that applicant may be permitted to file written statement of defence to the




-3-

5
Memorandum of Charge within the time as extended by the respondents. If so advised, applicant may file his written statement of defence to the Memorandum of Charge and in such eventuality, the competent authority is at liberty to deal with the matter in accordance with rules of law.

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

8. Applicant is at liberty to enclose copy of this order along with the written statement of defence to be filed by him before the authorities concerned.

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


MEMBER(A)