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ORDERS No.7

MA No.436/12

OA No.346/12

Advocate(s) - M/s.U.K.Pattnaik,M.M.Patnaik

Advocate(s) - Mr.S.K.Ojha

Date – 29th January, 2013.

CORAM

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

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

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This OA, due to non appearance of the Learned Counsel for the Applicant was dismissed for default on 26.04.2012. By filing MA No. 436/12 the Applicant seeks restoration of the OA for the reason that he could not be present on the date when the matter was listed due to a minor accident.

Today, on the consent of the parties, while giving consideration to MA No. 436 of 2012, we have also heard Mr.U.K.Patnaik, Learned Counsel for the Applicant and Mr.S.K.Ojha, Learned Counsel appearing for the Respondents on the OA. Since none appearance of the Learned Counsel for the Applicant was due to an unforeseen situation which was beyond his control prayer made in the MA is allowed and the OA is restored to file.

We find that the applicant earlier approached this Tribunal in OA No. 384 of 2011 and vide order dated 28th June, 2011 the said OA was dismissed on jurisdiction of this Tribunal to entertain this OA. Relevant portion of the order is extracted herein below:

“3. Upon perusal of records, it reveals that the applicant is a retired railway employee at present





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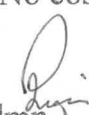
residing at Visakhapatnam (AP). It further reveals that the sole grievance of the applicant rests upon Respondent No.3 i.e. Deputy Financial Adviser and Chief Account Officer, East Coast Railway, Visakhapatnam (AP). On the question of maintainability, I have gone through Rule 6 of CAT (Procedure) Rules, 1987 and I find that no cause of action wholly or in part has arisen against Respondent No.2 who is stationed at Andhra Pradesh. Besides Sub Rule 2 of Rule 6 reads as under:

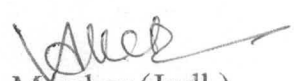
“Notwithstanding anything contained in sub rule (1) a person who has ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.”

4. Having regard to Rule 6 i.e. place of filing application as quoted above, I am convinced that this Bench has no jurisdiction to entertain the present OA as the cause of action for approaching the Tribunal by the applicant lies elsewhere.

5. In view of this, the OA is dismissed not being maintainable.”

It has been contended by Mr. Pattnaik, Learned Counsel for the Applicant that as the applicant has in the meantime been shifted and residing at 331/B, Retang Colony, C/o.K.Venkata Ramana Murthy, Khurda Road, Jatani, Khurda this OA is maintainable in this Tribunal. We are not convinced on this submission because shifting of the applicant subsequently cannot confer the jurisdiction on this Tribunal to adjudicate a cause which has arisen much before his shifting. Hence this OA stands dismissed on the ground of jurisdiction. No costs.


Member (Admin.)


Member (Judl.)