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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK


Original Application No. 904 of 2012  
Cuttack, this the 10<sup>th</sup> day of August, 2015

V.Raja Rao ..... Applicant  
Versus  
Union of India & Ors. .... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? ☒
2. Whether it be referred to PB for circulation? ☒

  
(R.C.MISRA)  
Member (Admn.)

  
(A.K.PATNAIK)  
Member (Judl.)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O. A. No. 904 OF 2012

Cuttack, this the 10<sup>th</sup> day of August, 2015

CORAM

**HON'BLE SHRI A.K. PATNAIK, MEMBER (J)**  
**HON'BLE SHRI R.C. MISRA, MEMBER (A)**

.....

V.Raja Rao,  
aged about 55 years,  
S/o Late V. Suranna, Account Assistant,  
(Earlier worked under DY. F.A. & C.A.O (Con) Visakhapatnam)  
Presently working under Sr. Div. Finance Manager, (Sr. D.F.M.)  
East Coast Railway, Visakhapatnam. (Andhra Pradesh)

.....Applicant

By legal practitioner: M/s. C.A.Rao, S.K.Behera

**-Versus-**

Union of India represented through its

1. General Manager,  
East Coast Railway, Chandrasekharapur,  
Bhubaneswar-751017, Khurda.
2. Deputy F.A. and C.A.O. (Con),  
East Coast Railway,  
At/PO/Dist- Visakhapatnam,  
(Andhra Pradesh).
3. F.A. and C.A.O. (Con),  
East Coast Railway, Chandrasekharapur,  
At/PO-Bhubaneswar, Dist-Khurda.
4. Sr. Divisional Finance Manager,  
East Coast Railway, Waltair Division,  
At/PO- Visakhapatnam,  
(Andhra Pradesh).

....Respondents

By legal practitioner: Mr. S.K.Ojha

**ORDER**

**A.K.PATNAIK, MEMBER (J):**

By filing this OA on 19.11.2012, the applicant has  
prayed for the following reliefs:

“The Original application be admitted,  
connected records be called for and an  
appropriate direction/order be issued to quash  
the orders dated 18.3.2010 (Annexure-4) and



order dated 8.5.2012 (Annexure-9) and declare (Annexure-4&9) are contrary to law and **further direct the Appellate Authority (Respondent No.2) to take decision in the pending appeal (Annexure-6) within specified time** strictly on the basis of 1968 Rules taking into consideration the grounds taken in the appeal within the specified time with all financial and service benefits accruing from such directions.

And/or any orders/ direction as may be deemed fit and proper be passed in the facts and circumstances of the case for which the applicant remain ever grateful.”

2. Respondents filed their counter in which while contesting the case of the applicant on merit they have also stated that as in the meantime the appeal of the applicant has been disposed of and the same has been communicated to him vide letter dated 1.1.2013 unless the said order is brought into within the scope and ambit, this OA is liable to be rendered infructuous.

3. Heard learned counsel for both the parties and perused the materials place on records. Learned Counsel appearing for the Respondents at the first instance highlighted that the order of the Disciplinary Authority which the applicant has sought to quash in this OA is already merged with the order of the Appellate Authority and the appellate authority order having not been challenged by the applicant, this OA is liable to be rendered infructuous. Secondly he has also heavily contested the case of the applicant and has stated that this OA being devoid of any merit is liable to be dismissed. Learned Counsel for the Applicant on the other hand while trying to make out a case in support of the relief claimed in the OA. In so far as the first point raised by the Respondents' counsel is concerned, it



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was contended by him that this OA was filed on 19.11.2012 and in which notice was issued on 13.12.2012. Section 19(4) of the A.T. Act, 1985 provides that **“where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter thereafter be entertained under such rules.** Therefore, the order passed by the Appellate Authority is no order in the eye of law. As such, this OA needs to be adjudicated on merit.

4. We have considered the rival submissions of the parties and perused the records including the provision of Section 19(4) of the A.T. Act, 1985. We find that one of the prayers of the applicant in this OA is to **direct the Appellate Authority (Respondent No.2) to take decision in the pending appeal (Annexure-6) within specified time.** This OA was listed on 13.12.2012 when on being conscious that the appeal of the applicant is still pending, this Tribunal had ordered to issue notice to the Respondents to file their counter whereas Section 19 (4) of the A.T. Act, 1985 clearly provides that where an application has been admitted by a Tribunal every proceeding under relevant service rules shall abate. Since this OA has not been admitted, Section 19(4) of the A.T. Act, 1985 cannot be attracted. We also find that the punishment imposed by the Disciplinary Authority has been reduced/modified by the Appellate



Authority to that of "Withholding of the Privilege Passes and Privilege Ticket Order (both) as per Rule-6(iii a) of D&A Rules-1968 for a period of one year i.e for the year 2011". In the circumstances, the appellate authority's order needs to be brought within the scope and ambit of the challenge of this OA. We also cannot take any cognizance of the said order unless the same is challenged specifically in this OA by application of law laid down by the Hon'ble Apex Court in the case of **Gyan Mandir Society Vrs Ashok Kumar**, reported in AIR 2010 SC 1548.

5. In view of the above, without expressing any opinion on the merit of the matter, we dispose of this OA with liberty to the applicant to pursue his grievance in appropriate proceedings known to law. No costs.

  
(R.C.MISRA)  
Member (Admn.)

  
(A.K.PATNAIK)  
Member (Judl.)

RK