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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 969 OF 2012
CUTTACK, THIS THE 21st DAY OF DECEMBER, 2012

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

R.P. Gauda,
aged about 35 years,
S/o. B.K. Gauda,
At present working as Loco Pilot(G) under Chief Crew Controller,
East Coast Railway,Talcher, Dist-Angul,
Permanent resident of Prahallad Nagar,
Po-Kaspa Street, Town-Berhampur,
Dist- Ganjam, Odisha.

.....Applicant

(By Advocate(s) M/s- N.R. Routray, S. Mishra, T.K. Choudhury, S.K. Mohanty)

VERSUS

Union of India

1. Represented through
   The General Manager,
   East Coast Railway,
   E.Co.R Sadan,
   Chandrasekharpur,
   Bhubaneswar,
   Dist-Khurda.

2. Senior Divisional Personnel Officer,
   East Coast Railway,
   Khurda Road Division,
   At/Po-Jatni,
   Dist-Khurda.

3. Senior Divisional Electrical Engineer(OP),
   East Coast Railway,
   Khurda Road Division,
   At/Po-Jatni, Dist-Khurda.

4. Chief Crew Controller,
East Coast Railway,
At/PO/Town-Angul,
Dist-Angul.

5. Sr. Divisional Personnel Officer,
South Eastern Railway,
Khargpur Division,
At/PO-Khargpur,
Dist-West Medinapur,
West Bengal.

6. Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Kolkata-43.

7. Chief Personnel Officer,
East Coast Railway,
E.Co.R Sadan,
Chandrasekharpur,
Bhubaneswar,
Dist-Khurda.

..... Respondents

(By Advocate.....Mr. T. Rath)

O R D E R (oral)

A.K.PATNAIK, MEMBER (J)

Heard Mr.N.R.Routray, Learned Counsel for the Applicant and Mr.T.Rath, Learned Standing Counsel for the Union of India appearing on behalf of the Respondents, who has received copy of the OA in advance and perused the records.

2. As it appears from the record, in letter dated 25.7.2012 the Respondent-Department circulated the **provisional** seniority list of Sr.ALPs/ALPs of Electrical (OP)/Running Cadre which was again

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issued after carrying out certain correction vide letter dated 10.10.2012 against which the Applicant preferred a representation on 17.10.2012 and having received no response has approached this Tribunal making the following relief(s):

> "a. To quash the order dated 10.10.2012 under Annexure-A/5 series so far as seniority position at 275;
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> b. And to direct the Respondents to assign the seniority position just below Srl.No.34;
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> c. And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice;
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> d. And for which act of your kindness the applicant as in duty bound shall ever pray."

3. At the out set Mr. T.Rath, Learned Standing Counsel for the Union of India appearing for the Respondents objected to the maintainability of this OA firstly, on the ground of non-joinder of necessary party. Secondly, Shri Rath submitted that when the Applicant submitted representation against the provisional gradation list, on 17.10.2012 which is under consideration the applicant should not have rushed to this Tribunal without waiting the result thereof. Hence according to Shri Rath, the OA being ultra vires the provisions of Section 20 of the A.T. Act, 1985 is not maintainable.

4. This was opposed by Mr.N.R.Routray, Learned Counsel for the Applicant stating that in view of palpable mistake of showing the position of the applicant in the provisional seniority list and since

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no action was taken even after submitting the representation there was no other option than to approach the Tribunal to the redressal of his grievance. In support of the maintainability of the OA, Shri Routray submitted that in view of the word 'ordinarily' provided in Section 20 of the A.T. Act, 1985 the objection raised by the Respondents does not stand to reason.

5. Further contention of Mr. Routray, Learned Counsel for the Applicant is that this being a matter of DB, if the Single Bench is not inclined to entertain this OA then the matter may be listed before the DB for consideration, instead of disposing of this OA with direction to the Respondents to consider and dispose of the representation of the Applicant.

6. Upon consideration of the rival submissions advanced by the respective parties and going through the provisions made in the A.T. Act, 1985, and the written note filed by the Applicant, I am of the considered view that there is no bar for considering the matter by a SB on the question of admission and interim order. But in case the Single Bench does not feel inclined to entertain the OA, the matter could be placed before the DB which, however, is not at the instance of the Counsel especially when the direction to dispose of the pending representation would in no way affect the interest of either of the parties.

7. There is no express provision in view of the word occurring in the statute i.e. 'ordinarily', for entertaining an OA, if there is urgency, before expiry of six months. But in the instant OA there is no such urgency pointed out by Learned Counsel for the Applicant. No such valid ground also pointed out so as to place the matter before the DB.

8. The Applicant submitted the representation against the provisional seniority list only on 17.10.2012. According, to the Respondents' Counsel, representations received against the provisional gradation list is under consideration. In view of the above, without entering into the merit of the matter, this OA is disposed of at this admission stage with direction to the Respondents to take a decision on the pending representation and communicate the decision therein to the Applicant in a well reasoned order, at an early date preferably, within a period of six months from the date of receipt of copy of this order.

9. It is further directed that status quo as regards the continuance of the applicant against the post in question as on date shall be maintained for a period of two weeks from the date of receipt of the decision on the representation by the applicant. There shall be no order as to costs.

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10. Send copy of this order along with paper book to the Respondent No.2 for compliance.

(A.K.Patnaik)
Member (Judicial)