

49
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/1017 OF 2012
Cuttack, this the ¹⁴/₁₁ day of November, 2017

CORAM

HON'BLE MR. S. K. PATTNAIK, MEMBER(J)

HON'BLE DR. MRUTYUNJAY SARANGI, MEMBER (A)

.....
Jyoti Sankar Baliarsingh, aged about 33 years, S/O- Surendra Nayak, At- Sudarshan Nagar, PO/Dist.-Puri.

...Applicant

(By the Advocate-M/s. D. K. Pattnaik)

-VERSUS-

Union of India Represented through

1. General Manager, East Coast Railway, Town/PO- Bhubaneswar, Dist-Khurda.
2. Chief Personnel Officer, East Coast Railway, Town/PO- Bhubaneswar, Dist-Khurda.
3. Divisional Railway Manager, East Coast Railway, Sambalpur, At/PO/Dist.-Sambalpur.

...Respondents

(By the Advocate- Mr. N. K. Singh)

ORDER

Mr. S. K. Pattnaik, MEMBER (J):

The applicant seeks quashing of order dated 20.03.2012 (Annexure-A/8) by which the General Manager refused to engage him as a substitute in East Coast Railway. The other prayer of the applicant is to direct the Respondents to engage him as Group 'D' substitute at par with other persons so engaged vide Annexure-A/6 series.

2. Earlier the applicant had approached this Tribunal in O.A. No.898/2011 and in response to the order of C.A.T. dated 27.01.2012 the General Manager has passed the impugned order on 20.03.2012 (Annexure-A/8). In a case of this nature where the applicant claims relief under discretionary quota of General Manager, the reasoning assigned by the General Manager in not extending the said

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benefit to the present applicant needs to be examined which is reflected in the order as quoted below:-

"On going through the papers, it is observed that you had requested for your engagemtn as substitute in Group-D category in East Coast railway, as also, your father, Shri Surendra Nayak and the then DPO/SBP had made a representation dated 17.08.2009 to the GM/ECOR for consideration of your engagement, which was forwarded by DRM/SBP vide letter dated 17.12.2009. However, the then General Manger has not considered your case for engagement as Substitute under his discretionary power. Discretionary power which was available with the General Manager was discretionary in nature and therefore this cannot be claimed as a matter of right.

While Divl. Railway Manager, Sambalpur had forwarded your application since your father was Divisional Personnel Officer, Sambalpur, it is not known as to how many more such applications were received in DRM's Office by Personnel branch but not forwarded since the then DPO chose not to put up all those other applications on file.

From your bio-date, it is seen that your educational qualification is B.A LLB with computer proficiency in ADCHE . On the other hand, the example of 14 Group 'D' substitutes appointments quoted by you, 10 are Class-X passed and only 4 are B.A Perhaps the then General Manager considered you to be over-qualified for a Group 'D' Post.

Be that as it may, in the meantime the guidelines for engagement of substitute under General Manager's discretionary power has undergone change vide Rly. Board's RBE No. 137/2010 (Copy enclosed). Currently, the General Manager has no outright discretionary power to consider any individual case. Detailed guidelines have already been quoted by you in your plaint before the Hon'ble CAT/CTC.

At present, there is no need of engagement of Substitutes in East Coast Railway as Zone is in the final stage of recruitment of 5200 Group 'D' Staff.

Your case will be considered along with others as per guidelines of RBE No137/2010 whenever there is any need in future."

3. The above reasoning assigned by the General Manager stands to logic and good conscience and is legally tenable. Hence, no interference is called for. The

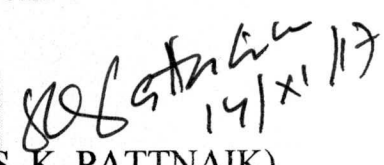
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General Manager has clearly clarified that the engagement of substitute under General Manager's discretionary quota has undergone a change vide RBE No.137/2010 and currently the General Manager has no discretionary power to consider any individual case.

4. The father of the applicant had made a representation way back on 17.08.2009 for engagement of his son and at this distant point of time and due to efflux of time no direction can be given as such a direction is not legally tenable. There is nothing wrong in the impugned order calling for interference. Hence ordered.

5. The O.A. being devoid of merit is dismissed. No costs.


(DR. M. SARANGI)
MEMBER (A)


(S. K. PATTNAIK)
MEMBER (J)