3

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.1027 of 2012
Cuttack this the 4th day of January, 2013

CORAM
HON'BLE SHRI A.K. PATNAIK, MEMBER(J)

Sri Balaram Behera,
Aged about 29 years,
S/o.Sri Buddhadev Behera,
Vill-Ratanpur,
Po-Madhaba,
Ps-Niali,
Dist.Cuttack
Working as Loco Pilot (G)
Posted at Talcher
Under East Coast Railway,
Khurda Road,
Khurda.

...Applicant

(Advocate:M/s..B.Dash, C.Mohanta)

-VERSUS-

Union of India represented through

1. The General Manager,
   East Coast Railway
   Rail Bhawan
   Chandrasekharpur
   Bhubaneswar
   Dist-Khurda

2. General Manager (P),
   East Central Railway,
   Hajipur,
   Dhanbad.

3. Divisional Railway Manager (P)
   East Coast Railway,
   Khurda Road Division,
   Po-Jatni
   Dist-Khurda

.....Respondents

(Advocate: Mr.T.Rath, SC)

O R D E R (oral)

A.K.PATNAIK, MEMBER (J)

Heard Shri B.Dash, Learned Counsel appearing for the Applicant and Mr. T.Rath, Learned Standing Counsel for the Railway, who on receipt of copy of the Original Application, appears on behalf of the Respondents and perused the materials on record.

2. Applicant, Balaram Behera, who is at present working as Loco Pilot (G) at Talcher has filed this Original Application praying therein as under:

> "A) The Original Application may be allowed;
> B) The respondents may be directed to allow the applicant to function as a Loco Pilot (G) as usual;
> C) The observation of the respondents that the promotion given was erroneous may be declared illegal;
> D) Such other order(s)/Direction (s) may be issued in giving complete relief to the applicant."

3. The main contention of the Applicant is that his seniority having been reckoned from the date of reporting in the Division where he came on mutual transfer, provisions enumerated in para 310 of the IREM have not been followed instead, provisions of para 312 of IREM have been adhered to, which is not permissible in the eyes of law. Further contention of the Applicant is that before coming to the conclusion that the promotion given to the Applicant was erroneous, no opportunity was given to him to have his say in the matter nor his representation made along with others on 17.10.2012 (**Annexure-A/5**) to the Senior Divisional Personnel Officer, Khurda Road Division/Divisional Railway Manager (P), ECoRailway, Khurda Road Division, Po-Jatni, Dist. Khurda (Respondent No.3) praying therein to publish a fresh seniority list by curing the infirmities has been

5

responded particularly when based on the modified seniority list, he is likely to be demoted.

4. On the other hand, Mr.T.Rath, Learned Standing Counsel appearing for the Respondents is not in a position to explain the circumstances in detail in the absence of instructions and therefore he seeks time to obtain instructions. However, Sri Rath has objected to the maintainability of this OA being premature as the applicant soon after submission of his representation on 17.10.2012, has rushed to the Tribunal without waiting till a decision is taken by the Respondents or after the expiry of the period of six months from the date of submission of such representation, as the case may be.

5. Having considered the submissions made by the Ld. Counsel for both the sides, without entering into the merit of the matter, this OA is disposed of at this admission stage with direction to the concerned Respondent with whom the reorientation at Annexure-A/8 is pending, to take a decision and communicate the result thereof in a well reasoned order to the Applicant, preferably, within a period of two months from the date of receipt of copy of this order.

6. 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.

7. Send copy of this order along with paper book to the Respondent No.4 at the cost of the Applicant.

(A.K.Patnaik)
Member (Judicial)