

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

OA No. 265 of 2013

Cuttack, this the 3rd day of May, 2013

CORAM

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

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

N.Siva Sankar,
Aged about 32 years,
S/o.Narayan Murthy,
Head Trackman,
Under SSE (P.Way),
East Coast Railway,
Kalupada Ghat,
Qr.No.D-1/B,
Retang Colony,
PO.Jatni, Dist.Khurda,
Odisha.

....Applicant

(Advocate(s): M/s.N.R.Routray, Smt.J.Pradhan, S.Parida, T.K.Choudhury)

VERSUS

Union of India Represented through -

1. The General Manager,
East Coast Railway,
E. Co.R Sadan,
Chandrasekharapur,
Bhubaneswar,
Dist. Khurda.



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2. Financial Advisor and Chief Accounts Officer,
East Coast Railway,
2nd Floor,
ECoR Sadan,
Chandrasekharpur,
Bhubaneswar-751017,
Dist. Khurda.
3. Deputy Financial Advisor and Chief Accounts Officer (G),
E.C.Railway,
2nd Floor,
E.Co.R Sadan,
Chandrasekharpur,
Bhubaneswar-751 -17.
4. Senior Divisional Personnel Officer,
E.Co. Railway,
Khurda Road Division,
At/Po. Jatni,
Dist. Khurda.

.... Respondents

(Advocate(s) – Mr. T.Rath)

ORDER

(Oral)

A.K.PATNAIK, MEMBER (I):

The case of the Applicant, in nut shell, is that he was initially appointed/engaged as a Junior Trackman in the pay scale of Rs.2610-3540/- on 22.9.2005 under SE (P.Way), Sompeta. At present he is working as a Head Trackman under SSE (P.Way), East Coast Railway, Kalupada Ghat in PB-I of Rs.5200-20200/- with GP



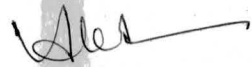
Rs.1800/-. The Railway Services (Revised Pay) Rules, 2008 came into force vide notification dated 4th September, 2008 (RBE No. 103 of 2008) making it effective w.e.f. 1st January, 2006 As per the Revised Pay Rules, the minimum pay revised by the Pay Commission became PB 1 of Rs.5200-20200/- with GP of Rs.1800/-. It was further recommended that the existing Group D employees who do not possess the revised minimum qualification for entry into PB I would be retrained by the concerned Department preferably within a period of six months. As per RBE No. 103 of 2008, as the applicant possessed the minimum qualification for the post he was holding as well as the required qualification for revision of pay to PB I (Rs.5200-20200/- with GP Rs.1800/-), the applicant was placed in the pay scale of PB I i.e. Rs.5200-20200/- with GP of Rs.1800/- with effect from 1.1. 2006. Thereafter, as per the RBE No. 108 of 2008 dated 11.98.2008, upon up gradation and fitment of the existing Group D employee in Group C the pay of the applicant was fixed at Rs.7000/- in PB 1 of Rs.5200-20200/- with GP of Rs.1800/- w.e.f. 1.1. 2006 and the applicant was also paid arrears. The Railway Board issued RBE No. 117 of 2008 regarding imparting training to Gr D staff for placement in PB 1 with GP Rs.1800/-. As per RBE No. 117 of 2008 those employees who do not possess minimum qualification



prescribed should be trained with emphasis of multi skilling and upgraded. As per RBE No. 117 of 2008 the Railway Board issued instruction only for Group D staff who do not possess the minimum qualification/training s required for revision of pay w.e.f. 1.1.2006.

2. Respondent No.2 issued notification dated 12.3.2012 for filling up of four posts of JE (IT) in the scale of Rs.9300-34800/-0 with GP Rs.4200/- against Departmental Promotion Quota from serving Group C employee of all Departments of ECoR. The eligibility condition as provided is that (i) he should be a permanent Railway Servant of any Department in Group C working in grades below the grade of Rs.9300-34800/-+GP Rs.4200/- with minimum five years of regular service and (ii) he should possess PGDCA/BSc (Computer Science)/BCA/DOEACC "A" level course of three years duration or equivalent from recognized University/Institute (Annexure-A/5).

3. Applicant submitted his application on 4.4. 2012 for the post of JE (IT) which was also forwarded by the Assistant Divisional Engineer, Balugaon to Respondent No.3 in letter dated 7.4.2012. Thereafter, eligibility list was prepared in which the name of the applicant was figured at Sl.No.1. But while forwarding his name in column detail of the post held it was mentioned that the date of appointment of the applicant is 22.9.2007 to continuing in GP



Rs.1800/- whereas the applicant was granted GP of Rs.1800/- in PB 1 of Rs.5200-20200/- w.e.f. 1.1. 2006. Respondent No.2 issued an order dt 6.9.2012 in which the name of the applicant found place in the list of 'not found suitable candidates' and his name was placed at Sl.No.6 in the said list. According to the Applicant the reason of placing the applicant in the list of not found suitable is that the applicant was upgraded to the post of Gr.C vide RBE No. 117 of 2008 and the up gradation date was taken as 24.9.2008 i.e. the date of issue of the RBE No. 117 of 2008. Hence the applicant and others were treated as Group C w.e.f. 24.9.2008 and hence they fail to complete five years of regular service as on 1.1. 2012. Being aggrieved, applicant submitted representation. However, while the matter under correspondence, Respondent No.3 for Respondent No.2 issued order dated 21.3.2013 along with a list of candidates not eligible for the written examination. In the said list name of the applicant was placed at Sl.No.14 and written test was fixed to be held on 10.5.2013 (Annexure-A/11). Thereafter, applicant submitted representation dated 27.3.2013 followed by reminder dated 15.4.2013 (Annexure-A/12 & A/13). Since no reply has been communicated to him till date he has approached this Tribunal in the instant OA with prayer to quash the order dated 6.9.2012 (Annexure-A/8), order dated

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21.3.2013 (Annexure-A/11) and to direct the Respondents to declare the applicant eligible for the post of JE (IT) in PB 1 (Rs.9300-34800/- with GP Rs.4200/-). By way of ad interim measure, he has prayed to stay the selection as per notification under Annexure-A/5.

4. We have heard Mr.N.R.Routray, learned Counsel for the Applicant who by reiterating the facts stated above while praying for issuing notice has prayed for grant of the interim relief prayed for by him in the OA and Mr.T.Rath, Learned Standing Counsel appearing for the Respondent-Railway who opposed entertaining this OA being premature as representation submitted by the applicant is still pending.

5. The representation is dated 27.3.2013 followed by reminder dated 15.4.2013 and according to the Applicant's Counsel written examination is scheduled to be held on 10.5.2013. In the circumstances without going to the various submissions made by the parties at this stage, we dispose of this OA at this admission stage with direction to the Respondent No.1, with whom representations at Annexure-A/12 & A/13, are stated to be pending to take a decision and communicate the result thereof in a reasoned order to the applicant within a period of sixty days from the date of receipt of copy of this order. We however, make it clear that if decision has already




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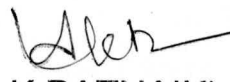
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been taken on the said representations meanwhile but not communicated to the applicant the same may be communicated within a period of two weeks hence. There shall be no order as to costs.

6. Copy of this order along with OA be transmitted to Respondent No.1 at the cost of the Applicant; for which Learned Counsel for the Applicant undertakes to furnish the required postal requisite within three days hence.


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


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