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## CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH, CUTTACK

O.A. No.429 of 2013

Cuttack, this the 22<sup>nd</sup> day of July, 2013

CORAM

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

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

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Narahari Behera, aged about 43 years, S/o.Krupasindhu Behera at present working as Sr. Clerk Office of the Sr.DCM, E.Co.Rly, Khurda Road, At/Po.Jatni, Dist. Khurda.

....Applicant

(Advocate(s):-M/s. R.K.Kar, S.K.Perali)

-Versus-

**Union of India represented through -**

1. The General Manager, East Coast Railway, Rail Sadan, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Chief Personnel Officer, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. The Divisional Railway Manager, ECoRly, Khurda Road Division, At/Po/Dist.Khurda.
4. Secretary, Railway Board, Rail Mantralaya, New Delhi.
5. Hina Chand Kumbhar working OS II in the office of Sr. Divisional Personnel Officer, ECoRly, Sambalpur, Dist. Sambalpur.
6. Kusmapu Anuradha working as Jr. Clerk in the office of Sr. DPO, Waltair, Dist. Visakhapatnam (AP).
7. Mamata Kumari Das working as OS II in the office of Sr.DCM, ECoRly, Khurda Road Jatni, Dist. Khurda.

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8. Manoj Kumar Patra, OS II working in the office of Chief Personnel Officer, ECoRly, Rail Sadan Bhubaneswar, Dist. Khurda.
9. Ramachandra Sahu, OS II working in the office of the Chief Personnel Officer, ECoRly, Rail Sadan, Bhubaneswar, Dist. Khurda.
10. Satya Narayan Prasad, OS II in the office of Sr. Divisional Engineer (Elect), ECoRailway Sambalpur Dist. Sambalpur.
11. Suresh Tirkey, OS II in the office of the Chief Commercial Manager, ECoRailway, Rail Sadan, Bhubaneswar, Dist. Khurda.

.....Respondents

(Advocate(s)-Mr.T.Rath)

## ORDER

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

Heard Mr. R.K.Kar, Learned Counsel for the Applicant and Mr.T.Rath, Learned Standing Counsel (for the Railway) appearing for the Respondents and perused the records.

2. In this case, the main grievance of the Applicant is that claiming anomaly and ambiguity in the advertisement issued for filling up of the post of OS through Limited Departmental Competitive Examination against 20% quota of the vacancies he has submitted representation to the General Manager, ECoRly, Bhubaneswar who is the competent authority to look to the said grievance of an employee of the Railway and as his grievance was not looked into/redressed by the GM,ECoRly,BBSR, the Applicant filed OA No.902 of 2012. The said OA (No.902/2012) was disposed of by this

*Order*

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Tribunal on 14.12.2012 with direction that the competent authority to consider the representations of the applicant dated 26<sup>th</sup> and 28<sup>th</sup> September, 2012 and pass a reasoned order as expeditiously as possible preferably within a period of nine weeks from the date of receipt of the said order. But instead of General Manager, ECoRly, BBSR before whom the applicant submitted representations, the CPO, ECoRly, BBSR disposed of the representations of the Applicant rejecting his grievance and communicate the reason thereof in letter dated 11.1.2013 in Annexure-A/10. It is the further case of the Applicant that the letter dated 11.1.2013 in Annexure-A/10 is not sustainable being contrary to the order of this Tribunal and that the CPO, ECoRly, BBSR was not competent to deal with such grievance of the applicant. Hence by filing the instant OA his prayer is as under:

- "(a) Let the OA be allowed;
- (b) Let the order in Annexure-A/10 be quashed and consequently the advertisement vide Annexure-A/1 be quashed being ambiguous;
- (c) Let the process of selection be declared nullity and as such the consequential selection panel be declared nullity, invalid and be quashed;
- (d) Let the respondent No.2 be directed to conduct fresh examination properly advertising the mode of selection;
- (e) To any another relief/reliefs are applicant is entitled."

3. On being questioned, Mr.T.Rath, Learned Standing Counsel (for the Railway) appearing for the Respondents controverted the stand of the Applicant that the CPO, ECoRly, BBSR

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is not competent to deal with the subject matter of the grievance of the Applicant. Mr.Rath has also questioned the legality/validity of sustenance/maintenance of the Original Application filed by the applicant after being unsuccessful in the selection.

4. Be that as it may, we find that we find that the direction of this Tribunal in the earlier OA No. 902/2012 dated 14.12.2012 was as under:

“4. Having heard the contentions of the parties we are of the considered opinion that the available remedies for the applicant having not been exhausted at the appropriate opportunity they have rushed to the Tribunal within a period of six months from the date of submissions of representation in September, 2012. Only on this sole ground, we are disposing of the present OA with direction to the competent authority to consider both the representations dated 26<sup>th</sup> and 28<sup>th</sup> September, 2012 vide Annexures-A/6 & A/7 respectively, to the OA and pass a reasoned order as expeditiously as possible preferably within a period of nine weeks from the date of receipt of this order.”

5. We find from the record that the said two representations dated 26<sup>th</sup> and 28<sup>th</sup> September, 2012 were addressed by the Applicant to GM, ECoRly, BBSR. The direction of this Tribunal was to the competent authority to consider and dispose of the said representations. The impugned order dated 11.1.2013 at Annexure-A/10 does not reveal whether the CPO, ECoRly, BBSR is the competent authority to deal with the subject matter of the grievance of the applicant and whether such order was issued after the approval of

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the GM, ECoRly, BBSR. Mr. Rath instantly does not have the instruction on these two points.

6. In the circumstances, without keeping this matter pending, we remit the matter back to the Respondent No.1 (i.e. the GM, ECoRailway, BBSR) to decide the legality, validity and authority and competence of the order of the CPO, ECoRly, BBSR and communicate the decision in a well-reasoned order to the applicant within a period of sixty days from the date of receipt of copy of this order.

7. In the result, with the aforesaid observation, without expressing any opinion on the merit of the matter this OA is disposed of at this admission stage. There shall be no costs.

  
(R.C. Misra)  
Member(Admn.)

  
(A.K. Patnaik)  
Member (Judl.)