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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 450 OF 2013

Cuttack, this the 18th day of July, 2013

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

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1. D.K. Murty, aged about 55 years,
Son of Late Sanjava Rao, (Surplus Asst. Guard),
2. Ch. Babu Rao, aged about 51 years,
Son of Late Krishna Murthy,
3. S.S. Prakash Rao, aged about 55 years,
Son of Late S.S. Narayama,
4. M.S. Chalam, aged about 53 years,
Son of M. Ramanadham,
5. T.V. Ramana, aged about 54 years,
Son of Late T. Govinda,
(All are presently working as Goods Guards,
At Bacheli Under Sr. Divisional Operation Manager,
East Coast Railway, Waltair Division, Visakhapatnam).

.....Applicants

Advocate(s).....M/s- A. Kanungo.

VERSUS

Union of India represented through

1. The General Manager,
East Coast Railway,
Chandrasekharpur,
Dist-Khurda.
2. Chief Personal Officer,
East Coast Railway,
Chandrasekharpur,
Dist-Khurda.
3. Chief Operation Manager,
East Coast Railway,
Chandrasekharpur, Bhubaneswar
Dist-Khurda.
4. Sr. Divisional Operation Manager,
East Coast Railway,
Waltair Division, Waltair, Visakhapatnam
5. Divisional Railway Manager,
East Coast Railway,
Waltair Division, Waltair, Visakhapatnam

..... Respondents

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



ORDER (ORAL)

MR. A.K.PATNAIK, MEMBER (JUDL.):

Heard Mr. A. Kanungo, Ld. Counsel for the applicants, and Mr. T. Rath, Ld. Standing Counsel appearing for the Railways, on whom a copy of this O.A. has already been served.

2. M.A. 489/13 arising out of O.A. 450/13 filed by the applicants for permission to jointly prosecute this case is allowed subject to the payment of Rs. 50/- per applicant except applicant No.1.

3. Mr. Kanungo, Ld. Counsel appearing for the applicants, submitted that while the applicants were working under Respondent No.4 as Asst. Guards they were declared surplus and were allowed to discharge the duties, functions and responsibilities in the post of Goods Guards in view of the administrative requirement and shortage to man the posts of Goods Guards. As such, the applicants were engaged to work as Goods Guards and they are working since 2006 without the scale attached to the post. Mr. Kanungo further submitted that departmental respondents in the meantime absorbed several signalers as Goods Guards but the case of the applicants were not considered and due to such inaction to regularize the applicants, they filed O.A. Nos. 224/10 and 239/10 before this Bench. By order dated 06.09.2012 both the O.As. were disposed with the following direction:

“.....we direct the Respondents to take a decision on the regularization of the applicants in the post of Goods Guard and communicate the same to each of the applicants within a period of 60 (sixty) days from the date of receipt of copy of this order and till then no fresh appointment to the post in question shall be made by the Respondents.”

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After disposal of the aforesaid two O.As, in obedience of the order of this Tribunal applicants were exempted from selection and after screening through viva-voce absorbed as Goods Guards with the approval of General Manager DRM (P) vide letter No. WPY/110/Ass Guard/dated 05.11.2012, which has been annexed as Annexure-A/2 of this O.A. After this, the applicants were sent for promotional course training to SINI and they have successfully completed their course. Mr. Kanungo brought to my notice that applicants were working as Goods Guards in Visakhapatnam and absorbed to the post but after completion of the training they have been posted at Bacheli, for which they submitted representation on 09.02.2013 to the Sr. Divisional Operating Manager under Annexure-A/4. Mr. Kanungo submitted that though the representations were made on 09.02.2013, having received no response from the concerned authority, they made another representation on 18.03.2013 to the Chief Personnel Officer, E.Co.Rly., Bhubaneswar (Respondent No.2) and copies of the same have been forwarded to the Chief Operations Manager, E.Co.Rly, Chandrasekharpur, Bhubaneswar (Respondent No.3), Sr. Divisional Operation Manager, E.Co.Rly, Waltair Division (Respondent No.4) and Divisional Railway Manager (P), E.Co.Rly, Waltair Division (Respondent No.5), but till date no response has been received from the said Respondents.

4. On the other hand, Mr. T. Rath, Ld. Standing Counsel for the Railways, submitted that applicants were working at Visakhapatnam and the order has been issued by the authorities at Visakhapatnam. Representations of the applicants were also sent to the Sr. Divisional Operation Manager,

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E.Co.Rly, Waltair (Respondent No.4) and, therefore, this Tribunal lacks competence to adjudicate this case on the point of jurisdiction.

5. However, I find that because of the inaction on the part of Sr. Divisional Operation Manager, as raised by Mr. Kanungo, since no communication has been received from the said authority another representation was made to the Chief Personnel Officer, E.Co.Rly., Chandrasekharpur, Bhubaneswar (Respondent No.2) and copy has been marked to Chief Operations Manager, E.Co.Rly, Chandrasekharpur, Bhubaneswar (Respondent No.3) and this is stated to be pending. Therefore, I think it proper to direct both the Respondent Nos. 2 and 3 to consider the aforesaid representation, if it is still pending, as per extant rules and regulations of the Railways and pass a reasoned and speaking order and communicate the same to the applicant within 90 days from the date of receipt of copy of this order. I also make it clear that if in the meantime representations have already been considered then the result thereof be communicated to the applicant within two weeks from the date of receipt of this order.

6. With the aforesaid observation and direction, the O.A. stands disposed of at the stage of admission itself.

7. Copy of this order, along with paper book be transmitted to Respondent Nos. 2 to 5 at the cost of the applicant, for which Mr. Kanungo, Ld. Counsel for the applicant, undertakes to deposit the postal requisites by 23.07.2013.


MEMBER(Judl.)