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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No.656 of 2013

Cuttack the 20th day of September, 2013

CORAM

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

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

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Binaya Shankar Mishra, aged about 40 years, Son of Late Chandra Sekhar Mishra, Qr.No.D/18/a/A Traffic Colony, PO. Jatni, Dist. Khurda at present working as Sr.Clerk, Optg in the office of Sr.DOM/KUR/East Coast Railway/Khurda Road, At/Po.Jatni, Dist. Khruda.

...Applicant

(Advocates: M/s.K.K.Das, N.R.Routray, Smt.J.Pradhan, S.K.Mohanty, T.K.Choudhury)

VERSUS

Union of India Represented through –

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

2. Chief Personnel Officer/East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.

3. Divisional Railway Manager, East Coast Railway, Khurda Road Division, At/Po.Jatni, Dist. Khurda.

4. Senior Divisional Personnel Officer East Coast Railway, Khurda Road Division, At/Po.Jatni, Dist. Khurda.

..... Respondents

(Advocate: Mr.T.Rath)

O R D E R

A.K. PATNAIK, MEMBER (JUDL.)

The grievance of the applicant, in this OA filed U/s.19 of the A.T. Act, 1985, in nut shell, is that on 6.7.2007, he was promoted to

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Goods Guard carrying the scale of pay of Rs.4500-7000/-. While continuing as such, on 30.5.2009 the Applicant was declared medically unfit in Aye two but fit in Cey one by the Chief Medical Superintendent, Khurda Road vide Memorandum dated 30.5.2009. On 11.11.2009 the Respondent No.4 recommended for giving an alternate posting in the stationary post of Senior Clerk in Central Tele Group in the same scale and GP as it is in the running cadre.

(ii) The Applicant by placing on record the orders dated 26.6.2012 & 12.10.2012 has brought to the notice of this Tribunal that similarly placed running staff of Electrical (OP) Department having been posted in Stationary Post being declared medically decategorized in one grade pay have been extended the benefits of the Railway Board's instruction issued vide RBE No. 53/2011 whereas the applicant has been deprived of the said benefits. It is the further case of the applicant that though he has ventilated his grievance before Respondent No.3 through representation dated 5.11.2012 praying for extension of the benefits of the RBE No.53 of 2011, as has been granted to other similarly situated employees till date he has neither been given the benefits of the RBE No. 53 of 2011 nor has he been communicated any decision on his representation.

(iii) It is in the above context by filing the present OA he has prayed for direction to the Respondents to provide alternate posting in the stationary post one GP above i.e. Rs.4200/- than the existing GP before medical de- categorization i.e. Rs.2800/- as present alternative posting is against the rule of Railway Board as well as the orders at Annexure-A/5 series.

2. Copy of this OA has been served on Mr.T.Rath, Learned Standing Counsel for the Railway who has objected to the very maintainability of this OA on two grounds namely the applicant having accepted the offer and joined in the new posting with the PB and GP he is estopped to seek the benefit of the RB at a later stage and secondly the applicant has approached this Tribunal without making any individual representation as submission of representation jointly is de hors the Rules the applicant cannot claim any right on the same.

3. On the other hand Mr.N.R.Routray, Learned Counsel appearing for the Applicant while stating that the first ground advanced by Mr.Rath is not sustainable as there can be no estoppel as the applicant's grievance is for extension of the benefits granted to other similarly situated employees in terms of the Railway Board Instruction, as regards the second point he has fairly contended that the applicant has

no objection to make representation individually but he has contended that unless there should be a specific direction the Respondents may not decide the matter as expeditiously as possible.

4. Taking into consideration the aforesaid submissions of the respective parties and as prayed for by Mr.Routray, Learned Counsel for the Applicant orally, without expressing any opinion on the merit of the matter, this OA is disposed of at this admission stage with direction that in the event any such representation is made to the Respondent No.3 by the Applicant within a period of two months hence upon receipt of the same the Respondent No.3 shall examine the case of the applicant with reference to the RBE No. 53 of 2011 and the order at Annexure-A/5 (series) granting the benefits of the RBE No. 53 of 2011 to similarly situated employees and communicate the result thereof to the Applicant in a well-reasoned order, within a period of two months from the date of receipt of copy of this order. In case, upon consideration of the representation, it is decided that the applicant is entitled to any financial benefits in terms of the RBE then the same shall be paid within another period of two months from the date of such order. In case any decision has been taken meanwhile on the representation submitted by the applicant jointly on 5.11.2012 then the result of such consideration, if

not already communicated shall be communicated within a period of fifteen days from the date of receipt of copy of this order.

5. As prayed for by Mr.Routray, Learned Counsel for the Applicant copy of this order along with OA be sent to Respondent Nos.3,4 and 5, for compliance, at the cost of the Applicant for which learned counsel for the applicant undertakes to furnish the required postal requisite by 23.9.2013.

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

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