

3
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00217 OF 2014
Cuttack this the 11th day of April, 2014

CORAM

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

Naresh Kumar Mundry
Aged about 30 years
Son of Chaitan Mundari
At/PO-Jhirpani
R.S.Colony,
Rourkela-42
Dist-Sundergarh

...Applicant

(Advocates: Mr.P.C.Chhinchani)

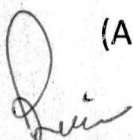
VERSUS

Union of India Represented through

1. The General Manager
South Eastern Railway,
Garden Reach
Kolkata (W.B.)
2. Disciplinary Authority * Divisional Mechanical Engineer(Diesel)
S.E.Railway
At-Bondamunda
Dist-Sundergarh
3. Inquiry Officer, S.S.E.(B/B), S.E.Railway
Office of the SSE(L/M)
At/PO-Bondamunda
Dist-Sundergarh
4. Senior Divisional Mechanical Engineer(Diesel)
S.E.Railway, At-Bondamunda
Dist-sundergarh
5. Asst. Divisional Mechanical Engineer(Diesel)
S.E.Railway
At/PO-Bondamunda
Dist-Sundergarh

... Respondents

(Advocate: Mr.T.Rath)



ORDER (ORAL)**R.C.MISRA, MEMBER(A):**

Copy of this OA has been served on Mr.T.Rath, learned Standing Counsel appearing for the Respondents, who accepts notice for all the Respondents in this OA. Registry is directed to serve notice, in terms of sub rule 4 of Rule 11 of the CAT (Procedure) Rules, 1987 for onward transmission.

2. Heard Shri P.C.Chhinchani, Learned Counsel for the Applicant, and Shri T.Rath, learned Standing Counsel appearing for the Respondents and perused the materials placed on record.

3. Applicant in the present O.A. has approached this Tribunal for quashing the disciplinary proceeding which has been initiated against him on the basis of Annexure-A/5. It is submitted by the learned counsel that earlier applicant had approached this Tribunal for revocation of suspension order and although the departmental authorities communicated him about the revocation order on 14.9.2012 vide Annexure-A/3, the original revocation was done on 13.12.2011, which order was not served on him. Thereafter, a departmental proceeding has been started against him and in spite of representation to the Inquiry Officer for nomination of an Advocate to plead his case as defence assistant, his request has been rejected by the I.O. vide Annexure-A/8. At the same time, the I.O. had also fixed sitting of the inquiry on 18.12.2013. Thereafter the applicant has submitted a representation to the I.O. at Annexure-A/10 requesting an adjournment of the inquiry till his Advocate is allowed as defence assistant to plead his case. Shri Chhinchani submitted that the I.O. has no authority to pass such an order. On the



other hand, Shri T.Rath, learned Standing Counsel representing the Respondent-Railways submitted that contrary to the plea made by the applicant at Annexure-A/4, he has not given his joining report but has laid down several conditions to be fulfilled before his joining. Shri Rath also submitted that the inquiry proceedings are going on and the applicant has not approached the competent authority with a prayer for redressal of his grievance and has straightaway approached the Tribunal. Shri T.Rath also submitted that he is not aware as to whether applicant has cooperated with the inquiry in pursuance to notice under Annexure-A/9.

4. I have considered the rival submissions. I also find that the applicant has not made any prayer to the Disciplinary Authority against the validity of the orders of the I.O. and since he has not exhausted the departmental remedies in the departmental proceedings, his approach to the Tribunal is premature. However, a departmental proceeding is in the nature of a quasi-judicial proceeding and therefore, unless the statutory remedies are availed of in course of the departmental proceedings, the Tribunal would not like to at this stage interfere in this case. Taking in account the submissions of learned counsel for both the sides, liberty is granted to the applicant to file a detailed representation ventilating all his grievances including the authority of the I.O. to reject his prayer for engagement of an Advocate as his defence assistant, addressed to the Divisional Mechanical Engineer(Res.No.2)/Disciplinary Authority within a period of fifteen days from to-day and on receipt of the same, Respondent No.2 shall



dispose of the same within a period of four weeks, through a reasoned and speaking order considering all the grievances posed by the applicant.

5. Till representation as directed above is disposed, the Disciplinary Authority is directed not to take any further steps in the disciplinary proceedings.

6. With the above observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.

7. Send copy of this order to Respondent Nos. 2 and 3 at the cost of the applicant, who shall deposit the postal requisites for the purpose in the Registry.

Free copy of this order be made over to the learned counsel for both the sides.



(R.C.MISRA)
MEMBER(A)