

3

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00807 of 2014
Cuttack this the 13th day of November, 2014

CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Gadadhar Mahapatra
Aged about 39 years
Son of Gokula Mahapatra
At-Badalpur,
PO-Garhbadput,
PS-Kanas
Dist-Puri
At present Rly.tr.No.E/30/S,
Rail Vihar,
PO-Rail Vihar,
PS-Chandrasekharpur,
Bhubaneswar
Dist-Khurda
At present working as Asst.Sub Inspector/RPF (Prosecution Cell)
In the office of IG & CSC/RPF/East Coast Railway
Bhubaneswar

...Applicant

By the Advocate(s)-M/s.M.K.Kuntia

G.R.Sethi

J.K.Digal

B.K.Pattnaik

-VERSUS-

Union of India represented through

1. The Secretary
Railway Board
Rail Bhawan
New Delhi
2. Chief Personal Officer
East Coast railway
Rail Sadan, Chandrasekharpur
Bhubaneswar, Dist-Khurda



3. General Manager
East Coast Railway
Rail Sadan, Chandrasekharapur
Bhubaneswar, Dist-Khurda

...Respondents

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

ORDER

R.C.MISRA, MEMBER(A):

Heard Shri M.K.Khuntia, learned counsel for the applicant and Shri T.Rath, learned Standing Counsel for the Respondent-Railways on the question of admission of this O.A.

2. Applicant in the present O.A. is serving as Assistant Sub Inspector in the Railway Protection Force (in short RPF). He has submitted that he joined the RPF as Constable on 8.3.1999 and thereafter, in the year 2011 was promoted to the rank of Assistant Sub Inspector. The background against which he has approached this Tribunal is that the Chief Personnel Officer in the East Coast Railways had issued a notification on 3.7.2013 inviting applications from regular Group-C employees for filling up two posts of Chief Law Assistant against 60% Departmental Promotion Quota (in short DPQ). After the scrutiny of the applications submitted by the candidates, the Chief Personnel Officer published a list of 77 eligible candidates and 14 ineligible candidates on 10.2.2014. Applicant was very much in the list of eligible candidates. Subsequently, however, on 3.9.2014, another notification was issued in which 57 candidates were declared to be eligible and 34 candidates were declared as ineligible. By this time, the



5

name of the applicant found place in the ineligible list. Being aggrieved by the 2nd notification, applicant made a representation to the General Manager(Personnel), East Coast Railways on 9.9.2014 and having received no response so far, he has approached this Tribunal seeking a relief that the 2nd notification should quashed and the applicant should be declared eligible to appear in the GDCE which is going to be held on 22.11.2014. His other prayer is that RBE No.139/2003, in which the RPF personnel have been debarred from appearing at GDCE and other departmental examination should be quashed as the same is illegal and arbitrary.

3. Learned counsel for the applicant while urging his points submitted that the applicant is very much eligible for appearing at the GDCE since he is a regular Group-C employee working in the Railway organization. As an ASI in the RPF, he is under the administrative control of D.G., but he is working under the general supervision of the East Coast Railways, Bhubaneswar. According to RPF Act, 1957, applicant must be treated as Railway Servant within the meaning of the Indian Railways Act, 1890. Except the disciplinary matters which are within the purview of the DG, applicant is governed by Rule-80 of RPF Rules, 1987 for the purpose of Provident Fund, Gratuity, Pension and Medical Claims etc. His further submission is that the Railways cannot make another class of employees within their organization and therefore, debarring the applicant from the



departmental examination is an action which is violative of Articles 14 and 16 of the Constitution of India.

4. On the other hand, Shri Rath submitted that the service matters relating to the RPF are not amenable to the jurisdiction of the Central Administrative Tribunal. As an illustration, he pointed out that the applicant cannot approach the Tribunal in respect of his grievance pertaining to service matters like pension, disciplinary proceedings etc.

5. Having heard the learned counsels for both the sides, we have perused the RBE No.139/2003 issued by the Railway Board on the subject of Scheme of GDCE for filling up a part of Direct Recruitment Quota posts in Group-C categories – Consideration of RPF Personnel. This RBE communicates the decision of the Railway Board that RPF/RPSF personnel cannot be allowed to appear in the GDCE. They will also not be eligible to appear in any other departmental selection in the Department other than RPF/RPSF. However, the past cases decided otherwise will not be reopened.

6. It is abundantly clear from the RBE No.139/2003 that it is a policy decision of the Railway Board not to allow the RPF personnel to appear in the departmental examination. Moreover, we have also perused Section 2 of the A.T.Act, 1985, which specifies that the provisions of this Act shall not



apply to any member of the navy, military or air force or of any other armed forces of the Union. By this provision of the Act itself, the Tribunal is not competent to try and adjudicate the service matters of the RPF. In so far as RBE No.139/2003 is concerned, this is a policy matter which is the subject between the Railway Board and the RPF organization and the Tribunal, in our considered view, will not be within its jurisdiction to adjudicate this matter.

7. Plea could be taken that the applicant is applying for a civil post and therefore, the Tribunal will have the jurisdiction to hear the matter under section 19 of the A.T.Act. However, the point to be noted here is that the subject matter of this O.A. is not a notification for general recruitment in which outsiders also can apply. It is a selection for the post of Chief Law Assistant against 60% DPQ and therefore, it is confined within the existing employees of the Railway organization who are eligible to appear in GDCE. Therefore, the applicant being an employee of the RPF and coming under the policy under RBE No.139/2003 cannot be allowed to avail of the provisions under Section 19 of the AT Act, 1985 to approach the Tribunal for the redressal of his grievance. Apart from this, the more important question to be considered is that the jurisdiction of the Tribunal is defined under Section 2 of the AT Act, which can in no case be ignored.




8

5

O.A.No.260/00807 of 2014

8. Considering the above reasons, we come to a conclusion that the Tribunal will not be within its jurisdiction to entertain this O.A. and therefore, the O.A. is rejected not being maintainable. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

BKS