

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.260/00009 OF 2014
Cuttack, this the 30th day of January, 2014

CORAM
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)
THE HON'BLE MR.R.C.MISRA, MEMBER (ADMN.)

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Hari Swain,
aged about 63 years,
Son of Late Kangali,
Retd. Khalasi Helper/
Engineering/ Construction/
E.C.Rly / Bhubaneswar,
Dist-Khurda
permanent resident of Village: Sathuapatna,
Po.Marjitapur, Via/P.S.: Jenapur, Dist. Jajpur.

....Applicant

(Legal Practitioner:-N.R.Routray, Smt.J.Pradhan,T.K.Choudhury,S.K.Mohanty)

Versus

UNION OF INDIA REPRESENTED THROUGH

1. The General Manager,
East Coast Railway,
Rail Vihar, Chandrasekharpur,
Bhubaneswar, Dist. Khurda.
2. Sr. Personnel Officer/Con/Coordination,
East Coast Railway,
Rail Vihar, Chandrasekharpur,
Bhubaneswar, Dist. Khurda.
3. Deputy Chief Engineer/Con./East Coast Railway,
Khurda Road at present at Qr. No.55/G,
Rail Vihar, Chandrasekharpur,
Bhubaneswar, Dist. Khurda.

.....Respondents

(Legal practitioner: Mr.T.Rath)

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O R D E R (Oral)

A.K.PATNAIK, MEMBER (JUDICIAL):

Heard Mr. N.R.Routray, Learned Counsel for the Applicant and Mr.T.Rath, Learned Standing Counsel for Railway who accepts notice for the Respondents. **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. The Applicant, while working in the Railway as Khalasi under the IOW/Con/ Gorekhanath, on reaching the age of superannuation, retired from service with effect from 28.02.2011. His grievance in this OA is that he entered to the Railway service as a Casual Khalasi on 06.03.1970 and, thereafter, he was brought over to regular establishment w.e.f. 01.02.1991. Railway Board issued RBE No.130 of 2000 on 30.06.2000 entitling employees of the Railway to get gratuity for the period of their casual service. Applicant exercised his option on 24.07.2012 praying for payment of gratuity to the extent of casual service rendered by him. Since he was not paid his entitled dues as per RBE No. 130 of 2000, he approached this Tribunal in OA No. 264 of 2013 which was disposed of on 03.05.2013 with direction to Respondent No.2 to take a decision, keeping in mind the provision of RBE No.130 of 2000, on the option exercised by the applicant and if he is,



otherwise, entitled to gratuity as claimed by him as per the Rules, the same should be released in his favour. Further grievance of the applicant is that though Respondent No.3 considered the option of the applicant but rejected the same on the ground that the applicant has not exercised his option properly and communicated the said order of rejection to the applicant vide letter dated 05.06.2013. According to the Applicant after receipt of the letter of rejection dated 05.06.2013 he has submitted another option in the proper form on 08.07.2013 as at Annexure-A/7 but no action has been taken thereon till date. Thus by filing the instant OA the applicant has prayed to quash the order of rejection dated 05.06.2013 and to direct the Respondents to pay him gratuity with simple interest from the date of his entitlement till actual payment is made as per RBE No. 130 of 2000 dated 30.06.2000.

3. By reiterating the facts and placing reliance on the RBE No. 130 of 2000, Mr. Routray submitted that non-payment of the gratuity for the casual period of service rendered by the Applicant, even after submission of fresh option being not bona fide, direction be issued to the Respondents to make payment of the gratuity to the applicant with interest within a stipulated period. On the other hand, Mr.Rath by drawing our attention to the fresh option allegedly submitted by the applicant contended that the same cannot be accepted to be the proper option. He has also

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pointed out the infirmity in the date(s) given in the said option form and accordingly submitted that non-payment of the dues, if at all applicant is entitled to, cannot be attributed to the Respondents and, has prayed that there being no illegality in the order of rejection, this OA is liable to be set aside.

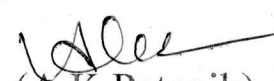
4. We have considered the rival submissions of the parties and perused the records. We find that the grievance of the applicant in the present OA is against nonpayment of gratuity to which he is entitled to as per RBE No. 130 of 2000 and, therefore, the authority who is in power and position should have been sympathetic to a retired employee especially when after retirement pension and pensionary dues are the means of livelihood. Be that as it may, in view of the submission made by Mr.Rath and on being confronted with Mr.Routray has fairly submitted that if liberty is granted to the applicant he will submit another option within a stipulated period and necessary direction be issued to the Respondents especially Respondent No.2 to consider the same keeping in mind the provision of RBE No. 130 of 2000 and release the gratuity amount to the extent the applicant is entitled to also within a stipulated time. In view of the above, we find no reason to keep this matter pending. We also find that no prejudice would be caused to any of the parties, in case this OA is disposed of at this stage by granting liberty to the applicant to exercise fresh option

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with direction to the Respondent No.2 to consider the same within a stipulated period. Accordingly, without entering into the merit of this matter, this OA is disposed of, at this admission stage, by granting liberty to the Applicant to exercise fresh option, in the prescribed form, within two weeks hence and in case such fresh option is submitted by the applicant within the period granted as above then Respondent No.2 will consider the same keeping in mind the provision made in RBE No. 130 of 2000 and communicate the decision thereof in a well-reasoned order to the Applicant within a period of 60(sixty) days from the date of receipt of fresh option. Upon such consideration, if it is decided that the applicant is entitled to gratuity then the same is directed to be paid to the applicant within another period of 60(sixty) days from the date of the order on his option. There shall be no order as to costs.

5. As prayed for by Mr Routray, Learned Counsel for the Applicant, copy of this order be sent to Respondent Nos.2 & 3, by speed post, for compliance, at his cost, for which he undertakes to furnish the postal requisite within three days hence.

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


(A.K.Patnaik)
Member (Judicial)