

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

**MA No. 407 of 2018 in
OA no. 560 of 2018**

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

Pradip Sadhukhan, aged bout 35 years, S/o Shankar Sadhukhan, at present working as a JE (OHE), Office of Senior Section Engineer (OHE), East Coast Railway, Talcher, at present residing at Qr. No.76/L, Railway Colony, PO – Talcher Railway Station, Dist. – Angul – 759100.

.....Applicant

VERSUS

1. Union of India, represented through the General Manager, E.Co.Rly., ECoR Sadan, Chandrasekharpur, Bhubaneswar, Dist. – Khurda – 751017.
2. Principal Chief Personnel Officer, East Coast Railway, ECoR Sadan, Chandrasekharpur, Bhubaneswar, Dist. – Khurda – 751017.
3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO – Jatni, Dist. – Khurda – 752050.
4. Senior Divisional Electrical Engineer (TRD), East Coast Railway, Khurda Road Division, At/PO- Jatni, Dist. – Khurda – 752050.
5. Senior Divisional Financial Manager, East Coast Railway, Khurda Road Division, At/PO – Jatni, Dist. – Khurda – 752050.

.....Respondents.

For the applicant : Mr.N.R.Routray, counsel

For the respondents: Mr.S.K.Ojha, counsel

Heard & reserved on : 26.2.2018 Order on :

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The OA has been filed by the applicant to ante-date his appointment at par with the date of appointment of others who were selected with him as per the Employment notice CEN No.1/2008. The OA is filed with the MA No. 407/2018 for condoning the delay in filing the OA.

2. The grounds urged in the MA are that being an applicant in the Employment notice CEN No. 1/2008 he was duly selected. But instead of issuing the appointment letter, he was asked by the respondents to appear in a re-test. The decision was challenged by the applicant in OA No. 288/2012 which was allowed. The respondents challenged before Hon'ble High Court in a

Writ petition which was dismissed. Then the respondents filed SLP which was also dismissed. Then the respondents issued the appointment letter dated 18.9.2015 (Annexure-A/5) after which the applicant joined in service on 25.8.2015. It is stated that the fact that other applicants had joined on 7.9.2012 was not within his knowledge at that time. After issue of the provisional gradation list dated 1.1.2018, the fact that other selectees had been assigned seniority higher than the applicant came to his notice, after which he challenged the same in this OA.

3. The respondents did not file any objection to the MA No. 407/2018 although four week time was allowed for the same vide order dated 10.12.2018. Learned counsels for both sides were heard on MA No. 407/2018 on 26.2.2019. The applicant's counsel reiterated the ground mentioned in the MA. Learned counsel for the respondents submitted that the applicant has failed to explain the reason for delay after he joined in service on 25.8.2015. The claim that the seniority of other selectees were in 2012 came to his notice after circulation of provisional gradation list on 1.1.2018 is not acceptable.

4. We are unable to accept the objections of learned counsel for the respondents since there is nothing on record to refute that the averment of the applicant that the seniority of other selectees was brought to the notice of the applicant prior to 1.1.2018. Hence, there is some force in the explanation of the applicant for delay as stated in the MA No. 407/2018 for which, the OA deserves to be considered on merit.

5. For the reasons discussed above, we allow the MA No. 407/2018 and condone the delay in filing the OA which is admitted. Respondents to file Counter in 6 weeks time and Rejoinder in 2 week time thereafter.

6. List on 8.5.2019.

(SWARUP KUMAR MISHRA)

MEMBER (J)

(GOKUL CHANDRA PATI)

MEMBER (A)

I.Nath