IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 14676 of 2013

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Prabhu Singh S/O Late Kalyan Singh Resident Of 301 Anubhuti Apartment 115, Anandpuri, West Boring Canal Road, Patna, P.S- Budha Colony, District- Patna.

.... Petitioner/s

Versus

1. The Union Of India Through The Secretary, Ministry Of Finance, Government Of India, Department Of Financial Services, Jeevan Deep Building, 3rd Floor, Parliament Street, New Delhi.
2. The Joint Secretary, Ministry Of Finance, Government Of India, Department Of Financial Services, Jeevan Deep Building, 3rd Floor, Parliament Street, New Delhi.
3. The Under Secretary (DRT), Ministry Of Finance, Government Of India, Department Of Financial Services (Banking Division), Jeevan Deep Building, 3rd Floor, Parliament Street, New Delhi.
4. The Director (DRT), Ministry Of Finance, Government Of India, Department Of Financial Services, Jeevan Deep Building, 3rd Floor, Parliament Street, New Delhi.

.... Respondent/s

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For the Petitioner/s : Mr Gautam Bose, Sr Advocate with
M/s Ajay Kumar & Shally Kumari, Advocates

For the Respondent/s : Mr Awadesh Kumar Pandey, SCGC
Mr Ravinder Kumar Sharma, CGC

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 17-04-2015

The petitioner has filed this writ application being aggrieved by the order of the Central Administrative Tribunal (for brevity, *the Tribunal*) dated 02nd of April, 2013 passed in OA No 559 of 2009.

2 The facts are not in dispute. The petitioner was earlier an Administrative Officer in the Bharat Wagon and Engineering Company Limited (A Company incorporated under the Companies

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Act and an undertaking of the Central Government). He was there since 1987 and in 2002, pursuant to letter dated 13.09.2002, he was deputed as Section Officer in the Debt Recovery Tribunal (DRT), Patna which he joined on 04.10.2002. In due course of time, he made an application for being considered for appointment to the post of Recovery Officer in the DRT. His grievance is that he thrice made application but on each time, even though there was recommendation by the Presiding Officers of the DRT, his case was never considered for the post of Recovery Officer nor there was any response.

3 Upon the OA being filed and notices issued, on behalf of Union of India, a stand was taken. It stated that as per advertisement, one of the eligibility conditions was that the person must have eight years' experience in analogous post of Section Officer for being considered for appointment as Recovery Officer. Admittedly, petitioner had joined the post of Section Officer in DRT in the year, 2002. He was absorbed in DRT in 2007.

4 Taking any view of the matter, from 2002 till 2009, he has not completed eight years as Section Officer. The Tribunal accepted this plea and, thus, held that petitioner was never eligible for the said post and, accordingly, dismissed the application.

5 Having considered the matter, we are of the view that the Tribunal has committed no error either of fact or in law which

requires interference. This application, accordingly, merits no consideration but while doing so, we must record that though the Tribunal has jurisdiction to award cost in appropriate case, it has no power to award damages or exemplary cost or cost as punitive measure. Here, after dismissing the application, the Tribunal went a step forward and held the application to be mischievous. We failed to understand how is it mischievous? Petitioner was asserting his bona fide right and belief. He may be wrong but it does not make the application mischievous. Thus the observations of the Tribunal and the cost, as awarded against the petitioner, cannot be sustained.

6 With this exception, this application stands dismissed.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

M.E.H./-

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