

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATANo. O.A. 351/00455/AN/2020
M.A. 351/00262/AN/2020

Date of order: 3.7.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. P.G. Abhilash,
Son of late Dr. K. Peethambaran Asari,
Aged about 45 years (date of birth – 24.09.1974),
Working as Industries Promotion Officer (Credit)
Under General Manager, District Industries Centre,
Udyog Parisar, Middle Point,
Port Blair – 744101,
Andaman & Nicobar Islands,
Present pay Rs. 62,200 (Level 7),
Residing at C/o Shri T. Kannaiah,
Ground Floor, C-111, Machi Line,
P.O. – Shadipur,
Port Blair, South Andaman,
A & N Islands.
2. Arup Majumder,
Son of late J.C. Majumder,
Aged about 58 years (date of birth – 17.01.1962),
Working as Industries Promotion Officer (Chemical)
Under General Manager, District Industries Centre,
Udyog Parisar, Middle Point,
Port Blair – 744101,
Andaman & Nicobar Islands,
Present pay Rs. 84,900 (Level 10),
Residing at House No. 15/7/1,
Deen Street Housing Development Society, Goal Ghar,
Port Blair, South Andaman, A & N Islands.
3. Abu Backer,
Son of late K. Mohammed,
Aged about 59 years (date of birth – 05.08.1960),
Working as Industries Promotion Officer (Handicrafts)
Under General Manager, District Industries Centre,
Udyog Parisar, Middle Point,
Port Blair – 744101,
Andaman & Nicobar Islands,
Present pay Rs. 74,300 (Level 8),
Residing at House No. 20, B.S. Road,
P.O. – Haddo,
Port Blair, South Andaman, A & N Islands.
4. K. Jai Kumar,
Son of late K. Kesavan,
Aged about 55 years (date of birth – 03.03.1964),

Working as Industries Promotion Officer
(Economic Investigation)
Under General Manager, District Industries Centre,
Udyog Parisar, Middle Point,
Port Blair – 744101,
Andaman & Nicobar Islands,
Present pay Rs. 64,100 (Level 6),
Residing at Ambady House, Loknath Colony,
Opposite B.R. Ambedkar,
Port Blair, South Andaman, A & N Islands.

5. Jawahar Lal Das,
Son of late B.B. Das,
Aged about 46 years (date of birth – 04.02.1974),
Working as Economic Investigator
Under General Manager, District Industries Centre,
Udyog Parisar, Middle Point,
Port Blair – 744101,
Andaman & Nicobar Islands,
Present pay Rs. 42,800 (Level 6),
Residing at Flat No. – B4, Reef Apartment,
Doctors Colony Road, Nayagaon,
Port Blair, South Andaman, A & N Islands.

..... Applicants.

Versus



1. Union of India,
Through The Secretary to Government of India,
Ministry of Micro, Small & Medium Enterprises,
Udyog Bhavan, Maulana Azad Road,
New Delhi – 110 108.
2. The Lieutenant Governor,
Andaman & Nicobar Islands,
Raj Niwas, Port Blair, PIN – 744101.
3. The Chief Secretary,
Andaman & Nicobar Administration,
Secretariat Building,
Port Blair, PIN – 744101.
4. Commissioner-cum-Secretary (Industries),
Andaman & Nicobar Administration,
Secretariat Building,
Port Blair,
Pin – 744 101.
5. The Secretary (Industries),
Andaman & Nicobar Administration,
Secretariat Building,
Port Blair,

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Pin - 744 101.

6. The Secretary (Personnel),
Andaman & Nicobar Administration,
Secretariat Building,
Port Blair,
Pin - 744 101.

7. General Manager,
District Industries Centre,
Udyog Parisar,
Middle Point,
Port Blair - 744 101,
Andaman & Nicobar Islands,

..... Respondents.

For the Applicant : Mr. B.R. Das, Counsel

For the Respondents : Mr. R. Halder, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved by an order to place the applicants on diverted capacity in the Directorate of Industries, Port Blair, the applicants have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, praying for the following relief:-

- (I) Rescind, recall, withdraw and/or cancel the Order (Annexure -A1).
- (II) Consider the representations (Annexure A-2) in their proper prospective and in the light of the decision by this Hon'ble Tribunal in O.A. No. 86/AN/2004 dated 1.06.2006.
- (III) Allow the petitioners to move jointly under Rule 4(5)(a) under CAT (Procedure) Rules considering that the petitioners have common cause of action.
- (IV) Certify and transmit the entire records and papers pertaining to the applicants case so that after the causes shown thereof conscientable justice may be done unto the applicants by way of grant of appropriate reliefs as prayed for in I to III, above.
- (V) Pass such other order/orders and/or direction/directions as deemed fit and proper.
- (VI) Costs."

2. An M.A. bearing No. 351/00262/AN/2020 has been filed by the applicants praying for liberty to jointly pursue this Original Application. Upon being satisfied that the applicants share a common cause of action and

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commonality of interest, such liberty is granted under Rule 4(5)(a) of CAT (Procedure) Rules, 1987, subject to payment of individual court fees.

M.A. is disposed of accordingly.

3. The applicants would submit through their Ld. Counsel that, they are substantive employees of the District Industries Centre, fully funded by the Central Government in the case of Union Territories. That, although in 1992, the Government of India transferred the Centrally Sponsored Scheme of the District Industries Centre to the respective State Governments, such order purportedly did not apply to Union Territories. The Andaman & Nicobar Administration, however, had, *suo motu*, sought to formulate certain proposals based on *denovo* assessment of the activities of the DIC which the applicants apprehend, if implemented unilaterally, would lead to non-replenishment of vacant posts in the DIC and that the General Manager and other officials of the DIC would be made part of the A & N Administration and become liable to report to the Directorate of Industries.

The applicants would further allege that this would lead to abolition of DIC as well as dilution of the control of the Central Government with necessary adverse effect on seniority and promotion of the employees.

The applicants are further aggrieved with an order dated 21.10.2019 vide which their services were placed on diverted capacity in the Directorate of Industries, and, accordingly, have approached this Tribunal in the instant O.A.

4. Ld. Counsel for the respondents is present and is heard. Ld. Counsel would draw our attention to the fact that, in the orders dated 21.10.2019 (as impugned), it was categorically stated that such arrangement would in no way affect the service conditions of the staff of either establishment including seniority and promotion, and, would, therefore, argue that this arrangement, not being prejudicial to the seniority and promotion of the applicants, the

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apprehension of the applicants are baseless and not founded on any rational and cogent grounds.

5. Ld. Counsel for the applicant, however, would urge that representations were received by the respondent authorities on 24.6.2020 (Annexure A-2 colly.), wherein, the applicants, in addition to reiterating the policy decision with reference to recruitment rules of the staff of District Industries Centre, Port Blair, have also referred to an order dated 1.6.2006 in O.A. No. 86/AN/2004 wherein the Tribunal had observed that "... *The General Manager, District Industries Centre, Port Blair as an independent entity under the control of Secretary (Industries) w.e.f. that date, and, therefore, the incumbents of the office of the District Industries Centre including the General Manager ceased to have any nexus with the Director of Industries. In other words, the applicant, for all purposes, was de-linked from the administrative activities of the Directorate of Industries....*".

6. In the absence of any decisions on such pending representations, Ld. Counsel for the applicant would pray for a direction on the authorities to decide on the same in a time bound manner. Ld. Counsel for the respondents does not object to disposal of such representations in accordance with law.

7. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, we would hereby direct the respondent No. 4, who is Commissioner-cum-Secretary (Industries), Andaman & Nicobar Administration, Secretariat Building, Port Blair, or any other competent respondent authority, to decide on the representations within a period of 12 weeks from the date of receipt of a copy of this order. The respondent authorities should take into account the orders of the Tribunal dated 1.6.2006 in O.A. No. 86/AN/2004, decide in accordance with law, and convey their decision in the form of a reasoned and speaking order to the applicants thereafter.

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Till such time that the representations are disposed of, the impugned order dated 21.10.2019, if not implemented, shall not be given effect to.

8. With these directions, the O.A. is disposed of. There will be no orders on costs.

9. The M.A. is also disposed of as stated in para 2 above, subject to payment of individual court fees by the applicants.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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