

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 231 OF 1989

Date of decision: 5-4-1991.

A.M. Barik and others : Applicants

Versus

Union of India and others : Respondents

For the applicant : M/s Deepak Misra,  
R.N. Naik, A. Deo,  
B.S. Tripathy,  
Advocates

For the Respondents : Mr. L. Mohapatra, Standing  
Counsel (Railway Admn.)

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C O R A M:

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)  
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1. Whether Reporters of local papers may be allowed to see the fair copy of the Judgment? Yes
2. To be referred to the reporters or not? No
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

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J U D G M E N T

B.R.PATEL, VICE CHAIRMAN: The applicants joined the South Eastern Railway in Gr.'D' in Different divisions. In response to the circular dated 3.7.1984 (Annexure-1), they joined the Carriage Repair Workshop, Mancheswar on 31.2.1986, 21.2.1986 and 19.12.1985. Subsequently they were made Khalasi-Helper on different dates taking into account their service before they joined in Mancheswar Workshop. They have approached the Tribunal for order directing the Respondents to promote them to Grade -III, Skilled Artisan Posts as they have qualified themselves in the prescribed trade test.

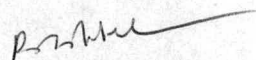
2. No counter has been filed on behalf of the Respondents.

3. We have heard Mr. Deepak Misra, learned Counsel for the applicants and Mr. L. Mohapatra, learned Standing Counsel (Railway Admn.) for the Respondents and perused the relevant records. ~~Mr. Misra has not filed any written note of argument though he undertook to do so~~ . Mr. Misra has urged that the applicants joined the Mancheswar

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Workshop specifically on the understanding that they would be given promotion. In this connection he has drawn our attention to paragraph-5 of the Circular dated 23.5.1983 and to paragraph 4.1.1 to 4.1.4 of the Joint Procedure order dated 22.12.1980 (Annexure-2). He has also contended that the denial of promotion by the Respondents is violative of the Circular dt. 30.4.1984. Mr. Mohapatra on the other hand denied the allegation of having violated the understanding <sup>given</sup> to the staff recruited from other divisions of the South Eastern Railway and has referred to paragraph-6 of Annexure-1 to substantiate this point. We have carefully perused the Joint Procedure Order, copy of which is at Annexure-2. Paragraphs-4, 4.2 and 5.3.1 of this order. Paragraph-4.1.1. to Paragraph-4.1.4. indicate the priority of consideration to the various classes of staff coming from other divisions. In short, this paragraph lays down that employees working in a particular trade in the Khargpur/Raipur/Nagpur Workshop of the South Eastern Railway coming over to





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Mancheswar Workshop on transfer in <sup>the</sup> same trade will be given the 1st preference, Second preference will be given to serving employees of the appropriate trade from the remaining Technical Department, Establishment including work-charged establishments. Third and fourth preferences will similarly be given to those who have the eligibility for promotion to the respective grades of the appropriate trade. As has been indicated above, the applicants were only Khalasies working in different divisions before they came over to the Mancheswar Workshop. They, therefore, do not satisfy the conditions laid down above. Paragraph-4.2 of this order lays down the conditions of fixation of seniority. This paragraph specifically mentioned that inter se seniority will be regulated by paragraphs 311 and 321 of the Railway Establishment Manual. Paragraph 5.3.1. of this order mentions that "Half the number of skilled artisan posts will be filled up by optees from the Technical Engineering Department of the South Eastern Railway". The Procedure as outlined in paras-4.1.1. to 4.1.4. and 4.2. above

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will be followed for filling up these posts. This makes abundantly clear that only those employees who satisfy the condition laid down <sup>in</sup> paras-4.1.1. to 4.1.4. would be promoted to the next promotional posts. We have mentioned above, the applicants do not satisfy those conditions. We also agree with Mr. Mohapatra that promotion is not a matter of right. As it is <sup>the</sup> prerogative of the authority to decide whether they will fill up certain posts at a particular time or not. It is upto the Railway Administration to fill up the vacancies in the promotional posts and we cannot hold them responsible for not filling these posts. There is also no mention in the application as to if any employee junior to the applicants has been promoted giving rise to the grievance of the applicants. For these <sup>reasons</sup> we find no merit in the application which stands dismissed but there would be no order as to costs.



*K. Mohanty*  
..... 5-4-91.  
MEMBER (JUDICIAL)

*B. Mohanty*  
..... 5-4-91.  
VICE CHAIRMAN

Central Administrative Tribunal,  
Cuttack Bench: K. Mohanty