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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.427 of 1989.

Date of decision: October 15, 1990.

Chitaranjan Mohanty and others ... Applicants.

Versus

Union of India and others ... Respondents.

For the applicant ... Mr.G.A.R.Dora, Advocate.

For the respondents... M/s.D.N.Misra,
S.Samantaray, Advocates.

C O R A M:

THE HONOURABLE MR. B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N.SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see 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.

J U D G M E N T

N.SENGUPTA, MEMBER (J) 137 persons have made this application. The reliefs that the applicants have prayed for are to direct the Respondents to regularise their (applicants') services as Skilled Artisans in their respective Trades and to declare Annexure- A/6, letter inviting option as invalid and illegal..

- N. Sengupta*
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2. The case of the applicants, put in brief, is that all of them had passed out from Industrial Training Institute and thereafter they were apprentices as provided under the Apprenticeship Act in different trades such as, Blacksmith, Painter, Welder, Fitter, Machinists

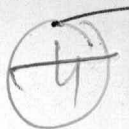
etc. On 19.2.1981 and 24.1.1985 vide Annexures A/1 and A/2 the applications were invited from Industrial Training Institute passed candidates possessing National Certificate under the Apprenticeship Act for recruitment as Skilled Artisans under different Trades in the Mancheswar Carriage Repair Workshop. In the advertisement of 1981, it was stated that there were 413 vacancies and in that of 1985, 509 vacancies were stated to have been there. They applied for the posts and appeared for selection before the officers constituting the Selection Committee. They were selected and appointed Skilled Artisans in different Trades. After the selection they joined either in March or in April, 1988. They were appointed in Group III posts having the revised scale of Rs.260-400/- which after the report of the Fourth Pay Commission was revised to Rs.950-1500/-. According to the conditions set forth in the appointment letter they were put on probation for a period of six months during which they were to receive stipend of Rs.950/- plus allowances. If their job during the period of probation would have been found unsatisfactory, they would either have been required to under-go repetition of the training given during the period of probation or their services might have been terminated. All of them successfully completed the training during the period of probation. Even though by the date of making the application they had completed more than 19 months of service, they were not given increment and other benefits except the initial salary of Rs.950/-. On 6.2.1989 they made

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a representation (vide Annexure-A/4) for confirming them in Skilled Grade II in their respective trades and again another representation to the same effect was made on 24.2.1989 but no reply having been received, a reminder was sent on 10.4.1989 but none of these has borne fruit. Subsequently, another representation dated 8.7.1989 was made. Thereafter the respondents by a notice dated 19-10.1989 vide Annexure-A/6 asked them (the applicants) to say whether they would opt for absorption in Class IV posts against possible vacancies in future accepting bottom seniority in that group. This notice for exercising option is against law and is illegal. Making these allegations, the applicants have prayed for the reliefs above mentioned.

3. The respondents in their counter have stated that for manning the staff at Mancheswar Carriage Repair Workshop appointments of many persons were required. So proposals vide Annexure-R/1 were sent to the Railway Board in 1983 for sanction of posts. In order to avoid loss of time, advertisements were made and it was decided that 50 per cent of the direct recruitment quota in respect of skilled artisans were to be made in advance so as to get the required man power. They have further stated that though proposals were sent ~~for~~ on the first occasion for 426 Grade III Artisans and subsequently for 257 more such Artisans, at the first instance the Railway Board sanctioned 209 posts of Grade III Artisans and thereafter another 128 posts. Since there are no posts against which the applicants could be absorbed, the prayer

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of the applicants is misconceived. They have further maintained that the advertisements were really for applications from persons intending to undergo training and not for being appointed as regular Skilled Artisans Grade III. Therefore, the applicants cannot urge that they have been denied justice. It is unnecessary to state other averments in the counter filed by the respondents.

4. We have heard Mr.G.A.R.Dora, learned counsel for the applicants and Mr.D.N.Misra, learned Standing Counsel(Railways) for the respondents. Mr.Dora has contended that from the averments in the counter filed by the respondents, it would be clear that each of the applicants successfully completed the training during the period of probation. He has further urged that the fact that the /applicants have the requisite qualification for being appointed as Skilled Artisans Grade III have not been disputed by the respondents. The main contention on which Mr.Dora has addressed elaborate arguments is that by the issue of the advertisements the Railway Administration represented that there were skilled Artisans posts vacant against which appointments were to be made and the applicants who had been working in other establishments applied in response to the advertisement, had undergone the training and successfully completed the period of probation. Therefore, the Railways are estopped from saying that as there is no available posts, the applicant or some of them cannot be appointed as skilled Grade II Artisans. Before we refer to the decisions cited by

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Mr.Dora, it would be better to refer to the factual aspects. Annexure-A/1 was advertisement in the daily Samaj by the Director of Technical Education, Orissa. The advertisement was in Oriya and when translated into English would read thus;

" It is for the information of the persons who have passed from recognised Training Institutes for being appointed as Fitters, Sheetmetal Carpenters, Welders, Machinists, Upholster, Blacksmith that 413 posts are vacant in Mancheswar Railway Workshop. The candidates are to be within age of 18 to 25 as on 1.1.1981 and the applications were to reach by 28.2.1981 the Additional Chief Mechanical Engineer (Construction), S.E. Railway, Garden Reach. "

The second advertisement was given by the Additional Chief Mechanical Engineer, W/S. Thereafter, in March, 1983 appointment letters in the nature of Annexure-A/3 were issued to the applicants. Mr.Dora contends that the applicants in response to Annexures.A/1 and A/2 had made their applications long prior to issue of Annexure -A/3 i.e. in response to the first advertisement they had to file their applications by 28.2.1981 and in response to the second advertisement by 28.2.1985. Therefore, the imposition of any condition regarding appointment by Annexure-A/3 was not proper. On the other hand, Mr.D.N.Misra has urged that on reading Annexure-A/2 and Annexure-A/3 it would be apparent that in Annexure-A/2 there was no offer for any appointment and in Annexure-A/3 it was clearly mentioned that by

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such selection for undergoing the training no guarantee was given for absorption in the regular cadre of the Railways . Therefore, no question of any estoppel could arise. We do not feel it very necessary to examine these contentions in great detail because we find from paragraph 1 of the counter filed by the respondents that proposal for appointment of 1378 Grade III Artisans was sent but no sanction had been accorded by the Railway Board till the date of filing of the counter. There is no dispute that Skilled Artisans in different grades are necessary, for the Mancheswar Carriage Repair Workshop and it is also undisputed that all the applicants have undergone the requisite training and have the requisite qualification for being appointed as Grade III Skilled Artisans. In such circumstances, we would say that the interests of justice would be best served by sanctioning requisite number of posts to absorb the applicants on whose training the Railway Administration spent money paying them stipends and also engaging instructors. We would direct the respondents to get the applicants absorbed in the regular cadre of Skilled Artisans Grade III within the a period of three months by doing ^{the} needful.

5. This application is accordingly disposed of.

No costs.

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Vice-Chairman

Central Admn. Tribunal
Cuttack Bench, Cuttack.
October 15, 1990/Sarangi.



Heena Gupta
15/10/90
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Member (Judicial)