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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 130 OF 1991
Cuttack this the 9th day of August, 1999

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Rajankanta Jena
Son of Raghunath Jena
At/PO: Basandara, Via: Biridi Road
Dist: Cuttack

...

Applicant

By the Advocates : Mr.G.A.R.Dora

-Versus-

1. Union of India through the
General Manager,
S.E.Railway, Garden Reach
Calcutta-43
2. Divisional Railway Manager,
S.E.Railway, At: Khurda Road
PO: Jatni, Dist: Puri
3. Senior Divisional Operating Superintendent
S.E.Railway, At: Khurda Road
PO: Jatni, Dist: Puri

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Respondents

By the Advocates : Mr.Ashok Mohanty

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ORDER

MR.G.NARASIMHAM, MEMBER(J) Applicant, Rajanikanta Jena, filing this application ^{on} 1.5.1991, prays for direction on the respondents-railways to allow him to work as substitute Token Porter with consequential benefits and also to regularise him, if necessary, by holding a screening test by claiming that he was appointed as a Registered Substitute Token Porter under the Station Superintendent, Khurda Road, who is under the direct control of Res.3, with effect from 12.6.1979 and by 13.12.1986 he worked as a substitute Token Porter for a period of 409 days as per certificate issued by the Station Superintendent under Annexure-A/1 and that on his representation for transfer (Annexure-A/2) he was transferred to Cuttack Railway Station to work under Station Superintendent by order dated 6.11.1986 (Annexure-A/3). As per letter dated 26.10.1988 (Annexure-A/4), he was asked to appear screening test on 5.12.1988 for the purpose of regularisation. He did not, however, attend the screening and explained in his representation dated 24.2.1989 (Annexure-A/5) that owing to his illness he could not attend and requested the authorities to hold a test for him or call him for the next test. This representation was followed by reminders dated 3.5.1990 and 10.1.1991, but without any response. Hence this application. There is no mention in the Application under Section 19 of the Administrative Tribunals Act, 1985, that he infact joined at Cuttack Railway Station and worked for some time.

2. Respondents in their counter filed on 1.12.1992 denied the applicant having been appointed as a

substitute Token Porter at any time. Annexure-A/1 alleged to have contained the days of his engagement, Annexure-A/3, the alleged transfer order and Annexure-A/4, intimation of screening test, according to respondents, have been manipulated by the applicant by inserting his name somehow. In other words, their pleading is that these Annexures, in so far as they relate to the applicant are not genuine. The Station Superintendent, Khurda Road in letter dated 9.6.1992 under Annexure-R/1 intimated the authorities that no person by name Rajanikanta Jena was ever engaged as substitute Token Porter. In letter dated 1.5.1992 (Annexure-R/2) the Station Superintendent, Cuttack also denied Rajanikanta Jena having ever worked as substitute Token Porter under him.

3. In rejoinder the applicant refuted the version of the Department and annexed xerox copies of certain documents of the railway authorities indicating the name of the applicant.

Since there is a conflict of versions, oral evidence of witnesses of both sides were recorded by the Tribunal and during oral evidence, ^{relevant} documents have been exhibited. In view of the recorded evidence, it is not necessary to refer to the documents annexed which in fact are not originals.

4. ~~The Tribunal~~ ^{including} applicant himself, examined three witnesses. From the side of the applicant ^{Department} also three witnesses were examined.

4. Applicant's witness No.1, Shri R.R.Majhi was Assistant Personnel Officer, Khurda Road, in the year 1986. He admits Exhibit-P containing transfer order

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(corresponds to Annexure-A/3) relating to transfer of Rajanikanta Jena from Khurda Road to Cuttack contains his signature. At the same time he denies to have heard the name of Rajanikanta Jena and does not remember to have seen him at Khurda Road during 1986. As Personnel Officer, he used to handle service matters of hundreds of railway personnels. The transfer was ordered by Assistant Operating Superintendent, who was the competent authority and on getting his approval he had put his signature. All that ^{his} evidence would establish that he had signed ~~in~~ a paper which contains the transfer order of Rajanikanta Jena from Khurda Road to Cuttack.

5. Witness No.2, Shri K.Malick for the applicant, ~~who~~ ^{was} joined as Station Superintendent of Khurda Road in the year 1984. He admitted that Exhibit P.2 (corresponds to Annexure-A/1) showing the typed dates of engagement (Annexure-A/1) of Rajanikanta Jena was signed by him. At the same time he admits that he does not know Rajanikanta Jena personally. During the relevant time he signed in ~~wherein~~ Exhibit-P/2, 15 substitute Token Porters were working at Khurda Road Railway Station. Names of those 15 substitute Token Porters could be known from the Register of Substitute Token Porters. As per the information supplied by the Station Clerk and the Billing Clerk, he had put his signature in Exhibit P/2 without personally verifying the register of Substitute Token Porters. But after this Original Application was filed, he did verify that Register and found that name of the applicant did not find place in the register. It is not expected of a senior personnel in the cadre of Station Superintendent to verify each and every register before putting his signature on a paper ~~drawn~~ or typed by one of his

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subordinates. Hence it cannot be said with reasonable certainty that simply because Exhibit P/2 contains the signature of this witness, the contents therein must be true. Whether the contents therein are true or not can be established only on verification of that substitute TokenPorter Register.

6. Rajanikanta Jena, the main witness ~~from his~~ ^{side} admitted that he never worked at Cuttack Railway Station. His version is that on 6.11.1986, after receiving the order of transfer he came to Cuttack to join, but was not permitted to join. Before receiving the order of transfer he was in fact ill for some time and again after receiving the order of transfer he fell ill for two years. After recovery he approached the Station Master at Cuttack Railway Station for joining, but was not permitted. Thereafter he sent representation to Khurda Road, but without any response. During his tenure at Khurda Road, on the dates of his engagement, he was getting wages after signing in the pay order book. Again he says that he was being paid wages for the month to month.

7. Thus it is clear from his evidence and of all these three witness if the register of substitute Token Porters and register containing payment of daily wages reveal the name and signature of the applicant then the version of the applicant can be believed to some extent.

8. Witness No.1 for the respondents Sunil Kumar Biswas is Sr.Divisional Transport Inspector of Khurda Road working from the year 1978. Substitute Token Porters engaged by him work from Retang to Talcher Stations excluding Khurda Road and big stations. He denied

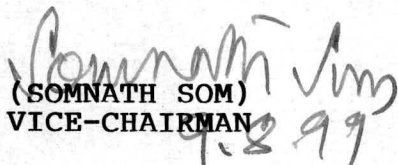
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Rajanikanta Jena to have worked under him as substitute Token Porter at any time. Witness No.2, Janaki Rao is an Office Superintendent, Gr.II, S.E.Railway, Khurda Road from 10.11.1979 to 24.2.1988. While in the Box, he verified the substitute Token Porter, (Exhibit R.1) and deposed that name of Rajanikanta Jena does not find place from the year 1979 onwards. Substitute Token Porters, according to him, were paid wages upto 1983 through Station Pay Order and after December, 1983, they were being paid through salary bills every month. On verifying the salary bills of substitute Token Porters of Khurda Road Railway Station from 1983-86, he deposed that name of Rajanikanta Jena is nowhere to be found. The other witness Suryamani Dhal of the Department was Dealing Assistant at Khurda Road from 1987 -91. He admitted that persons mentioned in letter dated 26.10.1988 were called for screening test, but no person called Rajanikanta Jenadid turn up for the screening test. Had he come for such test, there would have been an opportunity for the concerned authorities to verify his past service.

9. At this stage we cannot but observe that the applicant did not file any document in support of his so called long drawn illness. Least his so called alleged past service would be subject to verification and scrutiny, he avoided to attend the screening test even though his name was manipulated and found place in letter dated 26.10.1988. The basic register, i.e. Substitute Token Porter register of Khurda Road Railway Station, verified by the department witness Janaki Rao establishes that name of Rajanikanta Jena does not find place in that

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register on any date from the year 1979 onwards. This witness is emphatic that no other register is maintained for marking attendance of substitute Token Porters. Applicant himself admitted that at the time of receipt of wages and salary he used to sign in the concerned paper, but witness Janaki Rao, after verifying salary bills of substitute Token Porters from 1983 to 1986 deposed that name of Rajanikanta Jena nowhere finds place.

10. In view of our aforesaid discussion of the evidence adduced by both sides, we are convinced that the applicant's version that he was engaged as substitute Token Porters from 1979 onwards at Khurda Road Railway station is far from truth. Accordingly, we do not see any merit in this Application, which is accordingly dismissed, but without any order as to costs.


(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO

9-8-77
(G.NARASIMHAM)
MEMBER(JUDICIAL)