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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. NO. 430 OF 1991.

Cuttack this the 30th day of January, 1997.

TANMOY DAS & OTHERS.

...

APPLICANTS

VERSUS

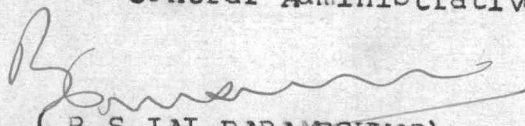
UNION OF INDIA & OTHERS.

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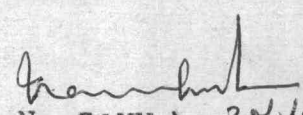
RESPONDENTS.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? No
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL)

30.1.97


(N. SAHU) 30/1/97
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 430 OF 1991.

Cuttack this the 30th day of January, 1997.

C O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

A N D

THE HONOURABLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDICIAL).

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IN THE MATTER OF:-

1. Tanmoy Das, S/o. Trilochan Das, New Revenue Colony, near T. V. Centre, Qr. No. A/5, Tulsipur, Cuttack-753 008.
2. Gopal Chandra Mishra, S/o. late Gopal Charan Mishra, At/Po-Gania, Dist-Puri.
3. Anil Kumar Mishra, S/o. late Hadibandhu Mishra, Chhayapatha Lane, New Town, At/Po.-Nayagarh.
4. Rajashree Goswami, D/o. Dharanidhar Goswami, At/Po.-Guamal Dist. Balasore.

.... APPLICANTS.

BY THE LEGAL PRACTITIONER : MR. G. A. R. DORA, Advocate.

-VERSUS-

1. Union of India represented through the General Manager, South Eastern Railway, Garden Reach, Calcutta-43.
2. Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta-43.
3. Chairman, Railway Recruitment Board, Orissa Forest Corporation Building, Second Floor, A-84, Kharvel Nagar, Bhubaneswar, Dist-Khurda.

.... RESPONDENTS.

BY LEGAL PRACTITIONER : MR. R. C. RATH, STANDING COUNSEL (RAILWAYS).

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ORDER

MR. N. SAHU, MEMBER(ADMN.): In this Original Application, the reliefs prayed for are as under:

- 30.1.90
- "a) Quash the appointments of persons below the petitioners in the panel/merit list.;
 - b) Direct the Respondents to appoint the petitioners in N.T.P.C. posts with consequential benefits from the dates their juniors (who were below the petitioners in the panel) were appointed;
 - c) Issue any other appropriate relief in favour of the petitioners justified under the circumstances;".

Panel for Employment Notice No.4/89 was prepared by the Railway Recruitment Board, Bhubaneswar. On the basis of a written test held on 12-11-1989 and viva-voce test in January, 1990. All the four applicants have found a place in the panel published on 22.1.1990 which is Annexure-A/3 to the petition. Applicants 1 and 4 have joined elsewhere and they are not interested in pursuing this Original Application. Learned Counsel Shri G.A.R.Dora has confined his submissions only for applicants 2 and 3. These two applicants are graduates and have applied for all the three categories. They are placed at Sl.Nos.16 and 18 in the order of merit as per the merit

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list. Their grievances arose when ignoring them, Respondents have appointed 32 persons from this panel beginning from Sl. Nos. 28 to 60 as Ticket Collectors.

2. While this Original Application was pending, ^{wa} applicants 2 and 3 have also been appointed as Ticket Collectors and they have joined training at SINI. Their grievances 'A' and 'B' ~~do~~ not survive for consideration. With regard to other appropriate reliefs, learned Counsel Shri Dora submits that the applicants should be given their due seniority because for no fault of theirs, they have been denied appointments for a considerable period of time. When this matter came up before a Division Bench on 1.11.1995, vide Order No. 20 the Division Bench ordered that Respondents shall prepare a seniority list of all Ticket Collectors appointed in pursuance of the advertisement and furnish to this Tribunal within four weeks positively.

3. Learned Standing Counsel for the Railways, Shri Rath, has placed before us ^{the} Submissions made on behalf of the Chief Personnel Officer in letter No. P/R&R/RC/TC/5328, dated December 20/12/1995 ~~which~~ as follows:

* A panel for 34 Ticket Collectors was formed by RRB/BBS on 22-01-1990. Further a panel for 17 office Clerks was formed on 22-01-1990.

Accordingly, offer of appointments were issued to the selected candidates for the post of TC in due course.

Regarding recruitment of office Clerk, it is stated that they could not be offered due to reduced requirement of Clerk. As such, a decision was taken to absorb them in alternative post of TC. Accordingly,

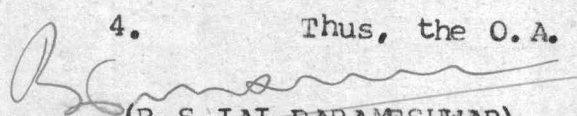
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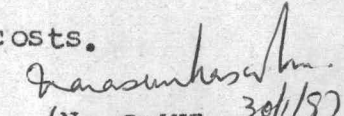
they were offered with alternative post of Ticket Collector.

Ticket Collector is a trainee category and on successful completion of the training, they were posted in different divisions according to the vacancy position of different divisions. Their seniority list is prepared by the respective Divl. Authority as per seniority rules, not centrally by Hd. Qrs. However, at the time of preparation of seniority list, the merit position obtained in the training centre is taken into account but not merit position obtained in RRB examination".

There is considerable force in the submission of Shri Dora that in a competitive examination held as in this case, seniority as notified in the merit panel should be adhered to. In all cases of direct recruitment, through competitive examination the seniority list ^{must be} ~~is~~ in conformity with panel merit list. The submission of the Chief Personnel Officer that at the time of preparation of seniority list the merit position obtaining in the Training Centre will be taken into account will be justified provided such a submission is supported by an operative Rule issued by a competent authority in this regard and should be in force at the relevant time for deciding seniority of all such appointees. If such a rule exists, the seniority of the applicants be fixed accordingly after combining their position in the training as well as in the merit list. If no such rule exists, we direct that the seniority position as notified in the merit panel dated 22.1.1990 issued by the Railway recruitment Board, Bhubaneswar shall only be followed in fixing the seniority position of the applicants.

4. Thus, the O.A. is disposed of. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL)


(N. SAHU) 30/1/87
MEMBER (ADMINISTRATIVE)