

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 388 OF 1993.

Cuttack, this the 11th day of August, 1999.

BIJAYA KUMAR BHUYAN
AND OTHERS.

....

APPLICANTS.

- VERSUS -

UNION OF INDIA & OTHERS.

....

RESPONDENTS.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not? *Yes.*
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *NO.*

(G. NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 388 OF 1993.

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CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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1. Bijaya Kumar Bhuyan, aged about 42 years,
2. Birendra Kumar Pattnaik, aged about 32 years,
3. Surendra Harichandan, aged about 40 years,
4. Prasanta Kumar Sahu, aged about 34 years,
5. Bijaya Kumar Sahu, aged about 30 years,
6. Gopal Chandra Das, aged about 35 years,
7. Lokanath Moharana, aged about 35 years,
8. Panchanan Barik, aged about 33 years,
9. Padmanav Sahu, aged about 32 years,
10. Subash Chandra Nayak, aged about 33 years,
11. Kanduri Charan Swain, aged about 33 years,
12. Siba Sundar Mohapatra, aged about 33 years,
13. Kishore Kumar Moharana, aged about 33 years,
14. Kumar Samal, aged about 34 years,

All are at present working as Painter, Grade-I,
in Paint Shop Carriage Repair work Shop, South
Eastern Railway, Mancheswar, Bhubaneswar-17,
DIST. KHURDA.

.... APPLICANTS.

By legal practitioner : M/s. D. Bhuyan, A.K. Sahu, B.N. Das,
S.K. Panda, Advocates.

- VERSUS -

1. Union of India represented through the Secretary, Department of Railway, Rail Bhawan, New Delhi.
2. General Manager, South Eastern Railway, Garden Reach, Calcutta-43, West Bengal.
3. Chief Workshop Manager,
4. Workshop Personnel Officer,
5. Works Manager,

respondent Nos. 3 to 5 are working at Carriage Repair Workshop, South Eastern Railway, Mancheswar, Bhubaneswar-17, Dist. Khurda.

6. Shop Superintendent, Paint Shop Carriage Repair Workshop, South Eastern Railway, Mancheswar, Bhubaneswar-17, Dist. Khurda.

... RESPONDENTS

By legal practitioner: M/s. B. Pal, O.N. Ghosh, Senior Counsel for Railways.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

S. Som.

In this original Application under section 19 of the Administrative Tribunals Act, 1985, 14 applicants who have been permitted to pursue this original Application jointly have prayed for quashing the order dated 1.8.90 at Annexure-4. They have also prayed that applicants should not be compelled to execute the underframing black painting works on rotation basis and thereby they are treated equally with Painters Grade-II and III.

2. Briefly stated, the case of applicants is that they are working as as Highly Skilled Painter Gr.I.

There are highly skilled Grade II and Highly skilled Grade III painters. Highly Skilled Gr. I, painter, to which rank applicants belong are promoted from the rank of highly skilled painter grade II. They have stated that usually they have confined to the work of finish painting such as artistic painting and signwriting painting i.e. the type of works which require special skilled workers. They have further stated that in Mancheswar Carriage Repair Workshop, there are 114 painters out of which 45 persons are skilled painters, 39 persons are skilled painter, Grade II and 24 persons are Highly skilled painter Grade-I. Applicants have stated that they are in receipt of higher scales of pay compared to the other two grades. It is further stated that the works Manager of Macheswar Carriage Repair Workshop, Respondent No. 5 was allotting to applicants the work which is supposed to be done by the lower grade painters such as skilled painters and highly skilled painters Grade-II. They have stated that the work of underframe painting like black paint work was also directed to be carried out by the applicants and they should not be called upon to do this work. That is how, they have come up in this Original Application with the prayers referred to earlier.

3. The Respondents in their counter have stated that in the joint procedure order, which is at Annexure-R/1, 13 trade categories (general) have been formed by amalgamating the appropriate trade categories as existing in South Eastern Railway in Mechanical Department. Accordingly, the Painter trade formed in Macheswar Workshop by amalgamating

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trades like Painter, Painter Brush Hand, Painter (Rough) Pain miker, Sign writer, spray Painter, Polisher and Designor. Since the applicants are designated as Painter there can not be distinction between a High Skilled Painter with Brush Hand Painter as the trades have been merged with one category or one cadre of Painter in terms of Annexure-R/1. According to the Respondents, all these comes within the trade painter and the categorisation of painter in three grades if for the purpose of promotion and higher scales of pay. There is no differentiation with regard to the work. It is also stated that the applicants grievance, if any, do not relate to their service conditions and is therefore, not maintainable before this Tribunal. Respondents have stated that the present grievance of applicants if at all, is maintainable before the Industrial Tribunal as the applicants are industrial workers as well. On the above grounds, Respondents have opposed the prayers of applicants.

4. This 1993 matter has come up from the warning list notified more than a month ago. Today, when the matter was called for hearing, neither the applicants' counsel Mr. D. Bhuyan nor his associates were present nor was any request made on their behalf seeking adjournment. In this case pleadings have been completed long ago. In view of this it was not possible to allow the matter to drag on indefinitely. Therefore, we have heard Mr. B. Pal, learned Senior Counsel appearing for the Respondents and have also perused the records.

S. J. M.

5. Grievance of applicants are that as they are highly skilled painter Grade-I, they should only do the final painting works but they have been put to work the underframe painting like black paint work which is illegal and is liable to be quashed. They have also stated that black painting of the wagon, is not their work. We fail to see how the grievance such as this, can be termed as service condition of the applicants. It is also not in dispute that applicants are highly skilled painter Gr. I and they are in receipt of higher scales of pay but the applicants have not shown any rule or order which lays down that they will only do the final types of painting and they can not be called upon to do the work as has been directed him to do in Annexure-4. In view of this, we hold that the grievance of applicants does not relate to the service condition and therefore, the dispute relating to this matter is not maintainable before this Tribunal. Respondents have pointed out that if the applicants have any grievance, they can raise the same before the Industrial Tribunal. We agree with the above.

6. In the result, therefore, we hold that the application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN 8.99

KNM/CM.