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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NOS. 545 & 546/93
Cuttack, this the 19th day of August, 1999

CORAM:

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

.....

In OA 545/93

1. Debaraj Sahu
2. Susama Das
3. Smt. Deepti Nayak
4. N. Patnaik
5. G.V.S. Rao
6. R.S. Rao
7. Geetanjali Khuntia
8. Ch. Vijaya Lakhmi
9. S. Sahu
10. M.R. Biswal
11. D. Jayalakhmi
12. P.K. Padhi

all are working as Senior Clerks in the office of
Divisional Commercial Manager, S.E. Railway, Khurda Road,
At/PO/PS-Jatni, District-Khurda

In OA 546/93

1. Sri P.K. Satpathy
2. Sri S.C. Bose
3. Sri G.C. Das
4. Sri Hari Behera
5. Prayambada Patnaik
6. Jayanti Panda
7. Sri A.K. Bhuyan
8. Sri K. Sardar
9. Sri B. Muduli
10. Sri B. Mallik

all are working as Junior Clerks in the office of
Divisional Commercial Manager, S.E. Railway, Khurda Road,
At/PO/PS-Jatni, District-Khurda.... Applicants

Advocate for applicants - Mr. P.C. Mohapatra

Vrs.

1. Union of India, represented through its General
Manager, South Eastern Railway, 11, Garden Reach,
Calcutta-700 043.

2. Chief Personnel Officer, S.E.Railway,
Garden Reach, Calcutta- 700 043.
 3. Divisional Railway Manager,
South Eastern Railway, Khurda Road,
At/PO/PS-Jatni, District-Khurda.
 4. Divisional Personnel Officer, South Eastern Railway,
Khurda Road, At/PO/PS-Jatni, District-Khurda.
 5. Divisional Commercial Manager, South Eastern Railway,
Khurda Road, At/PO/PS-Jatni, District-Khurda.
- Respondents

Advocate for respondents - Mr.B.Pal

O R D E R

ORAL

SOMNATH SOM, VICE-CHAIRMAN

These two applications have been heard separately. But as the subject matter is very similar and reliefs claimed are also similar, one order will govern both these O.As.

2. The applicants in OA No. 545/93 are Senior Clerks in the Commercial Cadre under Divisional Commercial Manager (respondent no.5). They have stated that after restructuring of the ministerial cadre of the Railways, the staff strength in the Commercial Department was fixed and the departmental authorities filled up the posts of OS, Grade-II and OS, Grade-I. But consequent on filling up of posts of OS, Grade-II and OS, Grade-I and consequent on restructuring, certain vacancies were there in the post of Head Clerks. The applicants represented to the departmental authorities for filling up of the post of Head Clerks but without any result. That is why they have come up in this petition for a direction to respondent no.5 to fill up the post of Head Clerks. They have also prayed for a direction to the respondents to give the

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applicants ad hoc promotion to the post of Head Clerk till regular appointment is made.

3. As the Railways in these two cases have filed identical counters, the counters filed are not being referred to twice.

4. The applicants in OA No. 546/93 are Junior Clerks. In this Application they have prayed for a direction to the departmental authorities to fill up the post of Senior Clerk within a stipulated period and also for a direction to give them ad hoc appointment to the post of Senior Clerk. They have made identical averments as in the case of the applicants in OA No. 545 of 1993 and it is not necessary to repeat the same.

5. The Railways in their counters have pointed out that the staff strength indicated by the applicants vide Annexure-2 of these two petitions is not entirely correct. The number of vacancies in different grades of ministerial cadre as per Annexure-2 include the posts of ministerial staff in the Claim office at Bhubaneswar. It has been later on decided in the order dated 26.11.1993 which is at Annexure-R/1 of the counters that the Claim office at Bhubaneswar is only an extension of the Claim office at Headquarters and the posts in the Claim Office at Bhubaneswar are part of the cadre of Headquarters Claim Office at Garden Reach, Calcutta. The respondents have stated that accordingly for the purpose of filling up of the posts of Head Clerk and Senior Clerk, the posts in the Claim Office at Bhubaneswar cannot be taken into consideration. The respondents have also stated that they have already taken steps to fill up the posts of Head Clerks and Senior Clerks. They have also mentioned that only three of the applicants in OA No. 545/93 are eligible to get promotion to the post of Head Clerk and

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the process of determining their suitability is at hand and the posts will be filled up expeditiously. In OA No. 546 of 1993 the respondents have stated that they have already initiated the process of filling up of the post of Senior Clerks and there is no intention to ignore the legitimate claim of the applicants in OA No.546/93. On the above grounds, the respondents have opposed the prayers of the applicants.

6. These are 1993 matters where pleadings have been completed long ago and the matters have come up for hearing from the Waiting List notified more than a month ago. Today when the matters were called, Shri P.C.Mohapatra, the learned counsel for the petitioners was absent nor was any request made on his behalf seeking adjournment. In view of this, it is not possible to drag on the matters indefinitely. We have therefore heard Shri B.Pal, the learned Senior Counsel for the respondents and have perused the records.

7. The applicants in these two cases have prayed for a direction to the departmental authorities to fill up the posts of Head Clerks and Senior Clerks expeditiously. In the counters filed sometimes in May 1994 the respondents have indicated that they have already initiated filling up of the posts of Head Clerks and Senior Clerks. In the intervening period of another five years the posts might have already been filled up. The respondents have also stated that they have no intention to ignore the legitimate claim of the applicants for promotion to the posts of Head Clerks and Senior Clerks. In view of this, it is not necessary to issue any other direction to the respondents to fill up the posts of Head Clerks and Senior Clerks expeditiously.

8. The second prayer of the applicants in these two cases is for a direction to the respondents to give them ad hoc appointment to the posts of Head Clerks and Senior Clerks. Ad hoc appointments are given by the departmental authorities depending upon exigency of service and requirement of hands for attending to urgent nature of work. It is entirely for the departmental authorities to decide the question of giving ad hoc appointment. In any case if regular appointments have already been made in the meantime there cannot be any question of giving ad hoc appointment to the applicants to the posts of Head Clerk and Senior Clerk. This prayer of the applicants is accordingly rejected. We also note from Annexure-R/1 that while filling up of the posts the respondents would leave out of consideration the ministerial posts in the Claim Office at Bhubaneswar which are declared not to be treated as part of the ministerial staff of the Commercial Department of Khurda Road Division. In view of the circular at Annexure-R/1 we hold that the posts in the Claim Office at Bhubaneswar cannot be taken to be a part of the Commercial Department of Khurda Road Division. This contention of the respondents is accepted.

9. In the result, therefore, both the Original Applications are disposed of with the observations above. No costs.

Sd/-G. Narasimham
Member (Jud)

Sd/-Somnath Som.
Vice-Chairman

VICE-CHAIRMAN