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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No. 574 of 1992

Postal Printing press Employee's
Union through its General Secretary,
Sri Sambhu Nath Tiady, Postal printing
Press, Mancheswar Industrial Estate,
Bhubaneswar-751 010.

Applicants

Vrs.

Union of India & Others.

Respondents.

O.A. No. 615 of 1993

Bidya Bhushan Pattnaik

Applicant

Vrs.

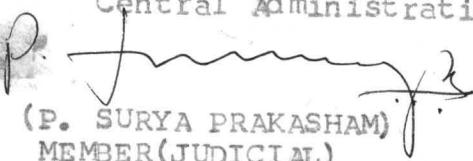
Union of India and others

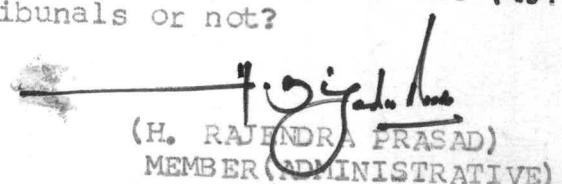
Respondents

Cuttack this the 8th day of Nov , 1993.

(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 Tribunals or not? No.


(P. SURYA PRAKASHAM)
MEMBER(JUDICIAL)


(H. RAJENDRA PRASAD)
MEMBER(ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No. 574 of 1992.
O.A. No. 615 of 1993

Cuttack this the 8th. day of Nov , 1995 .

CORAM:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER(ADMN.)
AND

THE HONOURABLE MR. P. SURYA PRAKASHAM, MEMBER(JUDICIAL).

...

O.A. No. 574 of 1992

Postal Printing Press Employee's
Union, through its General Secretary
Sri Sambohu Nath Tiady, Postal Printing
Press, Mancheswar Industrial Estate,
Bhubaneswar-751010.

...

APPLICANT

By the Applicant : M/s S.K.Pattnaik, P.Pradhan,
A.K.Guru, Advocates.

Versus

1. Union of India represented through the
Secretary-cum-Director General, Department of
Posts, Dak Bhawan, Sansad Marg, New Delhi-1.
2. Chief Postmaster General, Orissa Circle,
Bhubaneswar-1.
3. Manager, Postal Printing Press,
Mancheswar Industrial Estate,
Bhubaneswar.
4. Sri Bidya Bhusan Patnaik,
S/o. Lingaraj Patnaik,
At. Postal Staff Colony, Qr.No.D/1,
Po.Gadagopinath Prasad,
Rasulgarh, Bhubaneswar, Dist-Khurda.
5. Sri Chinmaya Rath, S/o. Harihar Rath,
At.8 Acharya Bihar,
Bhubaneswar-13, Dist. Khurda.

6. Sri Arabinda Chakrabarty,
 S/o. late Prafulla Ku.Chakrabarty,
 At. Laxmi Sagar, Colony,
 Po. Budheswari Lane,
 Cuttack Road, Bhubaneswar-8,
 Dist. Khurda.

7. Sri Laxmi Kanta Das,
 S/o. late Gopal Chandra Das,
 Satya Nagar Bhubaneswar, Dist-Khurda.

(All are now working on deputation in
 Postal Printing Press, Mancheswar Industrial
 Estate, Bhubaneswar-10, Dist. Khurda).

... Respondents

By the Advocate ... Mr. U. B. Mohapatra, Addl. Standing
 Counsel(Central). for Res.1 to 3

By the Advocate ... M/s. S. B. Nanda, B. K. Patnaik,
 A. K. Mishra-1, S. K. Mishra,
 A. K. Mishra-2, P. K. Mishra,
 for Res. 4 to 7.

O. A. No. 615 of 1993

1. Sri Bidya Bhushan Patnaik,
 S/o. Lingaraj Patnaik,
 At/Postal Staff Colony,
 Qr.N.C.D/1,
 PO: Gadagopinath Prasad,
 Rasulgarh, Bhubaneswar,
 Dist. Khurda.
2. Sri Chinmaya Rath,
 S/o. Harihara Rath,
 At.8, Acharya Bihar,
 Bhubaneswar-13, Dist. Khurda.
3. Sri Arabinda Chakrabarty,
 S/o. late Prafulla Kumar Chakrabarty,
 At/ Laxmi Sagar Colony,
 Po. Budheswari Lane,
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 (All are working on deputation in postal
 Printing Press Mancheswar Industrial Estate,
 Bhubaneswar-10, Dist. Khurda.)

..... Applicants.

By the Applicants : M/s. S.B.Nanda, B.K.Patnaik,
 A.K.Mishra-1, S.K.Mishra,
 A.K.Mishra-(2), P.K.Mishra
 Advocates.

Vrs.

1. Union of India, represented through the
 Secretary cum Director General,
 Department of Post, Dak Bhavan, New Delhi.

2. Chief Postmaster General, Orissa Circle,
 Bhubaneswar-1, Dist. Khurda.

3. The Manager, Postal Printing Press,
 Mancheswar Industrial Estate,
 Bhubaneswar-10, Dist. Khurda.

4. The Director, Text Book Production
 and Marketing, Bhubaneswar-1.

5. Postal Printing Press Employees' Union
 Postal Printing Press, Mancheswar Industrial
 Estate, Bhubaneswar-10 through its General
 Secretary.

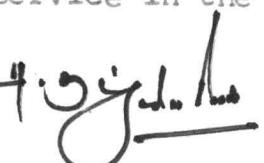
... Respondents.

By the Respondents :- Mr. U.B. Mohapatra, Addl. Standing
 Counsel (Central).

and
 Mr. S.K.Patnaik for Respondent No. 5.

O R D E R

H. RAJENDRA PRASAD, MEMBER(ADMN.): The petitioner in O.A. No. 574 of
 1992 is the Postal Printing Press Employees Union
 representing those workers who are directly recruited for
 service in the said Press.



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2. The applicants in O.A. 615 of 1993 are the workers from the office of the Director of Text Book Production and Marketing, Government of Orissa, who were brought on deputation to the Postal Printing Press soon after it was set up in 1986.

3. The Petitioners in O.A. No. 574 of 1992 pray for a direction to be issued to Respondents 1, 2 and 3 for promoting them against certain posts in the Press to which they have become eligible. They also object to the system of deputations from the State Government and are opposed to their absorption in the Press. ^(i.e., the deputationists)

4. The Petitioners in O.A. 615 of 1993 pray for a declaration that, by virtue of their long deputation to the Press they have been permanently absorbed in the Posts already held by them. They also pray for a direction to Respondents 1, 2 and 3 to promote them to such of the Posts for which they are eligible. Additionally, they also pray for a direction that their services earlier under the State Government be counted for all purposes and for all normal benefits.

5. A Departmental Printing Press was established in Orissa Postal Circle in 1986. Since this was the first venture of its kind in the Department, suitable trained/technical personnel to man the Press were not initially available in the Department. It was decided,

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therefore, to take the required number of suitable and skilled officials from the State Government on deputation. Originally their deputation was for a period of one year. It was extended from year to year thereafter, often unilaterally, without the prior consent or approval of the lending Government/Department. Be that as it may, the Director, Text Book Printing and Marketing, Government of Orissa conveyed his concurrence to the permanent absorption of the deputationist in the Press. In fact, the State Government had been pressing the Postal Authorities to settle the matter early since the indefinite deputation of these officials was causing problems in their organisation. Eventually, the period of six years, which is the maximum permissible period for deputations according to the State Government regulations, also elapsed in due time. A few of the deputationists originally brought to the Press from the State Government were repatriated to their Parent Unit since they were not willing for absorption in the Press. The present Petitioners have stayed on having given their consent for absorption on more than one occasion. It is seen that the Manager, Postal Printing Press, has been consistently pleading for the absorption of these deputationists, in view and the of the skills possessed useful work being performed by them.



6. It is argued by the Union that a deputationist can continue to man a particular post only until a person directly recruited for the Press in the feeder-post becomes eligible for promotion. Once such staff become fit and eligible, there is no justification to keep the deputationists in higher posts thereby injuring the interest of the original direct recruits. The Union insists that any permanent absorption of deputationist will adversely affect the interests of its members specially when they are now fit and eligible to shoulder the higher responsibility in their own right.

7. The petitioner in OA 615 of 1993, on the other hand, contend that they are better qualified than any of the members of the Union. Two of the applicants in this OA are graduates with a diploma in printing technology (Lithography); the third applicant is a graduate; the fourth applicant is a ITI qualified fitter. Thus, they assert, they are in every way better equipped to hold the promotional posts in comparison to the petitioners in OA 574 of 1992. They submit that they had in fact been consistently representing to the Postal Authorities either to repatriate them to their Parent Unit, or to absorb them permanently in their

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present posts. They complain that neither of these two courses has been acted upon although their options and willingness for permanent absorption were called for on more than one occasion. They add that they have been aiding and assisting the Postal Printing Press in diverse useful ways since its inception and have in fact substantially contributed to its growth and stabilisation.

8. The Respondents in both these cases confirm the basic facts. They admit that the persons who are brought on deputation came in at a time when the Postal Printing Press had just been established. They concede that but for their presence the press could not have been in any position to start production and to attain the acknowledged level of excellence which it has been able to do within a short period of nine years.

9. As regards the officiating promotions that were given to the deputationists, it is pointed out by the Departmental Respondents that such promotions had to be given in the interest of service, to keep the work going at a minimum level of efficiency, but also because none among the direct recruits had become eligible in terms of service, experience and expertise for such promotions. They also clarify

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that, whenever possible, viz. wherever the direct recruits were found to be eligible to be moved on to promotional posts they have been duly promoted. It is also added that a proposal to absorb the deputationists on permanent basis is under active consideration of the department.

10. The facts of these two cases are straightforward. The deputationists came over from the State Government at the instance of the Postal authorities in response to a specific requirement. They have been with the press for nine years. They have seen the Press start the initial production and have managed - as indeed have the direct recruits too - to keep the press in a fine shape during all the years of its existence. The deputationists were at one stage willing to be repatriated to their parent unit, but seem to have been retained in the Press by the Postal authorities entirely in the departmental interests. Due to their prolonged deputation they have in the process forfeited their rights, including probably the liens, in their parent department. They have also over-stayed the maximum period of deputation allowed by the lending Government. They are stated to be fully qualified in every way to hold not merely the post against which they were brought initially but also the ones ^{which} some of them occupy on promotion. Under the circumstances, it would be grossly unfair to deny them absorption and to expect them to go back to

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the parent unit after expiry of nine long years during which they have virtually become strangers to their own original unit but also possibly ^{have been} supplanted by their original juniors in matters of seniority and promotions.

11. We have no hesitation in declaring that they are eligible for absorption and should be so absorbed.

12. The question arises as to whether the absorption of the deputationists in any way injures the interest of the members of the Union. The point to be noted is that at the relevant juncture(s), these petitioners (IN OA 574/92) had not yet become eligible for promotion. The only alternative was to keep the promotional post(s) unfulfilled and to await the acquisition of necessary eligibility by those petitioners. This was obviously not possible in the interest of the efficiency of the Press. Logically, therefore, the authorities took the decision to confer officiating promotions on those workers who possessed the necessary eligibility and experience. In this case such officials happen to be deputationists. Even so, we do not see how such promotion has been incorrect in any manner.

Original

during the hearing

13. At one stage Shri S.B.Nanda, learned counsel for the petitioners in O.A.615/93, contended that the Postal Printing Press Employees Union has no locus standi to represent the petitioners and cited certain judgments in support of his arguments. He also questioned the status of the union inasmuch as they do not come under the definition of 'agents' as defined in CPC. In one of his communications, Respondent-3, i.e., Manager, Postal Printing Press, Bhubaneswar, also refers to the union as 'self-appointed'. However, it is seen that the petitioner union has been duly accorded recognition by the Department. The Manager, Postal Printing Press, who referred to the union as 'self-appointed' is himself seen to have permitted the Union to hold their general body meetings besides, inviting from them the agenda items for discussions in regular monthly meetings with them. The minutes of certain union meetings also confirm that the union has been permitted to function officially. In view of all these facts, the contention of the petitioners regarding the lack of status of the union is not accepted.

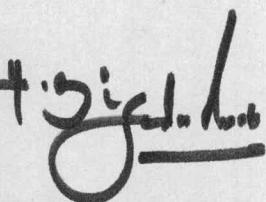
Shri SB Nanda also argued that the respondents 1 and 2 are estopped from going back on their promises. He contended that right from the beginning, the petitioners were not merely given the impression that they would be absorbed permanently in the press but were actually asked to exercise option and give their willingness for the

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same purpose on more than one occasion. Quite apart from these actions, the entire trend of correspondence between the Manager, Postal Printing Press, Chief Postmaster General and the Director General of Posts, reveals that the Department had been quite seriously considering their absorption on a permanent basis and at no time seriously envisaged the possibility of their repatriation. This correspondence was open and not of confidential nature. Such being the facts, it is clear that the deputationists cannot, at this distant date, be asked to go back to their parent unit, no matter what the other party contends in the matter. It would be grossly unfair to return them to their original unit after such a long lapse of time.

It is also revealed that, as a result of this long deputation, the petitioners have forfeited their claims to seniority and promotions in the Parent organisations. Quite possibly many of their juniors have already been promoted in the Government Text-book Press of the State Government. To repatriate them at this distance date would amount to injyring the interests of such of those officials who may have replaced them in seniority and promotions in the original unit, and who are not before us in this case. In any case, the repatriation of these deputationists would create an administrative chaos even if such a step is attempted.

14. Finally, justice, equity and fairness demand that the deputationists, who have given some of their best years

A handwritten signature in black ink, appearing to read "T. S. J. S. 1966".

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to the Postal Printing Press, and have stood by it from its teething-stages, should get their normal deserts in the organisation which has virtually adopted them on a long-term basis. This is based on considerations of common fairness and no law can possibly negate this basic and fair proposition.

Thus, in whichever way, or from whatever angle, these two cases are considered, it would be only eminently just and proper that the applicants in O.A.615/93 (S/Shri Bidyabhusan Pattnaik, Chinmaya Rath, Arabinda Chakrabarty and Laxmi Kanta Das) are provided the reliefs prayed for by them.

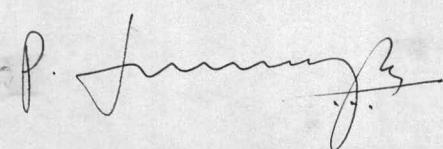
15. It is, therefore, directed that these petitioners be absorbed permanently in the Postal Printing Press and a suitable decision and administrative follow-up action be completed within 90 days from to-day. It is also directed that the services rendered by them in their parent unit, prior to their commencement of deputation to the Postal Printing Press, be given due weightage as per normal rules governing matters of seniority in such situations. These actions may be completed within 120 days from to-day. It is further directed that such promotions, as have already been conferred on them temporarily, shall now be converted into regular permanent promotions as per rules within 120 days from to-day. It is also clarified that these petitioners shall be fully entitled to any promotions that may become due to them by virtue of their qualifications and suitability, either in the past, or for any vacancies that may arise in future, as per their seniority & fitness/merit.

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S. K. Das

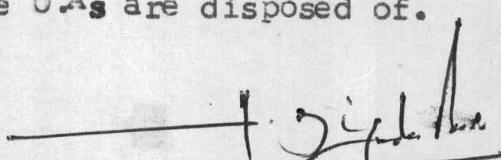
Any monetary benefits that may become due to the petitioners by virtue of the above directions shall also be arranged to be calculated, sanctioned and disbursed within 180 days from today.

Now that the press has been in existence for nearly 10 years, and has become an established institution, it shall be extremely undesirable to resort to deputation from any other source any more. It is directed, therefore, that any future recruitment made shall be strictly in terms of recruitment rules for the appropriate levels of appointment within the Postal Printing Press. In otherwords, the system of deputations should cease now. After the due and legitimate claims of the deputationists i.e., the petitioners in OA 615/93

of 574 of 1992, by virtue of seniority/suitability/experience have been duly met, all the remaining posts shall be filled up by promotion from among the direct recruits, i.e. members of the Postal Printing Press Union subject to suitability. It is expected that in future they shall get their legitimate due in matters of promotion and that their interests shall adequately be looked after and protected. The stay orders passed in this case are hereby vacated. Thus, the OAs are disposed of.



(P. SURYA PRAKASHAM)
MEMBER (JUDICIAL)



(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

KNMohanty.

Pronounced in open Court on 8/11/95.

Janasimhasahay

Member (Adm) on tour
Cuttack.