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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 735 OF 1993
Cuttack, this the 26th day of May, 1997

CORAM:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

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1. Trilochan Mallik,
son of late Brundaban Mallik,
Vill. Nischinta, P.O-Bainchua,
Via-Kotasahi, PS-Tangi, Dist-Cuttack
2. Jayachandra Das,
s/o late Dukhishyam Das of Nuapada,
PO-Nayabazar, PS-Madhupatna,
Town & District-Cuttack.
3. Bipin Kumar Mallik,
son of Gopal Mallik of Village-Badakhira,
P.O-Nischintakoili,
P.S-Salipur, Dist.Cuttack.
4. Purna Chandra Sethi,
s/o Madhusudan Sethi
of village-Kansar, P.O -Ostapur,
PS & Dist.Kendrapara
5. Bansidhar Sahoo,
S/o Bikali Sahoo of Balitota,
P.O- Mauda, P.S-Mahanga, Dist.Cuttack
6. Bamadeb Pradhan,
S/o late Nakafodi Pradhan,
At-Maidharpur, P.O-Barakana,
PS-Talcher, Dist. Dhenkanal
7. Umesh Chandra Tripathy,
s/o late Harihara Tripathy of
At-Udayapur Desh, P.O-Kulilo,
P.S-Athagarh, Dist.Cuttack

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Applicants

-versus-

1. Union of India, represented through
its Secretary, Communication, New Delhi-110 001.
2. Director General, Telecom, New Delhi.
3. Chief General Manager,
Telecom, Bhubaneswar.

4. Telecom District Manager,
Rupali Chhak, Bhubaneswar
5. Asst.Engineer, In charge,
Retail Telecom Store Depot,
Bhubaneswar-751 007
6. Sanatan Mallik,
Temporary Mazdoor, N.T.S.D.,
Bhubaneswar.
7. Bishnu Charan Natia,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar.
8. Purna Chandra Rout,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar.
9. Bijoy Kumar Naik,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar.
10. Ramachandra Behura,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar.
11. Krushna Chandra Samal,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar.
12. Brundaban Pati,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar.
13. Nakul Charan Sahoo,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar
14. Dukhishyam Samal,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar.
15. Pradeep Kumar Ojha,
Temporary Mazdoor, R.T.S.D.,
Bhubaneswar

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Respondents

Advocates for applicants

- M/s J.M.Mohanty, S.K.Mohanty,
K.Mohanty & P.K.Mohanty.

Advocates for respondents

- Mr.P.N.Mohapatra, ASC
(For Respondents 1 to 5)
&
M/s A.K.Bose, P.K.Giri,
S.N.Misra
(For Respondents 6 to 14)

ORDER

OMNATH SOM, VICE-CHAIRMAN

In this application, the seven applicants have prayed for a direction to respondent no.3 to allow them to work in the office of respondent no.5 in the Store Depot at Bhubaneswar. There was also a prayer for a direction to the respondent Nos.1 to 5 to allow the applicants to appear at the interview scheduled on 20.7.1993. But the matter came up for admission only on 19.1.1994 because of wrong addresses of respondents given in the Original Application and the second prayer has become infructuous.

2. Facts of the case are that the applicants along with respondent nos.6 to 15 were working as daily rated Mazdoors in the Store Depot of Telecommunication Department at Cuttack. The Store Depot was shifted from Cuttack to Bhubaneswar in order dated 1.4.1990. Respondent no.3 while shifting the Store Depot from Cuttack to Bhubaneswar called for option from ministerial and other staff who were on common gradation list within the territorial ~~of~~ Cuttack Telecom District to go to Bhubaneswar. But no such option was called from these daily rated Mazdoors, the applicants and private respondents. Ultimately, respondents 6 to 15 were taken to the Store Depot at Bhubaneswar where they were regularised. The applicants have stated that they were recruited along with private respondents through the Employment Exchange and some of them are senior to respondent nos.6 to 15 and therefore, they should have been taken to Bhubaneswar on transfer of the Store Depot ~~xxxxxxxxxxxxxx~~ so that they could have been regularised.

Om Nath Som
26.5.97

3. *Spm.* The official respondents in their counter have pointed out that even though from ministerial and other staff options were called for, from the daily rated Mazdoors like the applicants and private respondents their willingness to go to Bhubaneswar was ascertained orally and respondents 6 to 15 were taken

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to Bhubaneswar. It is submitted by the official respondents that just as respondent nos.6 to 15 were regularised after their transfer to Bhubaneswar, the present applicants have also been regularised in the Telecom Department notwithstanding their retention in Cuttack. Therefore, by not taking them to Bhubaneswar, they have not suffered in any way and there is no cause of action.

4. While it is admitted by the learned lawyer for the applicants that the applicants have in the meantime been regularised in Cuttack, he submitted that in the process they have suffered in seniority in the sense that they have become junior to the private respondents who were taken to Bhubaneswar and who got regularised earlier. To this submission, the learned Additional Standing Counsel appearing on behalf of official respondents pointed out that there is no question of the applicants becoming junior to respondent nos.6 to 15 because seniority is maintained Division-wise and Cuttack and Bhubaneswar are two different Divisions. Thus the seniority of the seven applicants has been fixed up separately and they are in no way concerned with the seniority of respondent nos.6 to 15 to whom they are not junior. Therefore, on this ground also, the applicants have no cause of grievance. It must be noted that both the applicants and private respondents were at the relevant time daily rated Mazdoors and it was not incumbent on the departmental authorities to call for written option from them for going to Bhubaneswar. After all, daily rated Mazdoors are engaged on daily wage basis for intermittent and casual nature of work and by not going through the elaborate process of seeking of written option from each one of the applicants and private respondents, no injury has been caused ultimately to the applicants. They have ~~also~~ been regularised and they have also lost no seniority vis-a-vis respondent nos.6 to 15.

Annexure
26.5.97

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5. In the result, therefore, I hold that the application has become infructuous and the same is disposed of in terms of the above observation. No order as to costs.

Somnath Som
(SOMNATH SOM)
VICE - CHAIRMAN 5.97