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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.744 OF 1993.

Cuttack, this the 14th day of September, 1999.

SUDHANSU KU.DAS & 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
14.9.99.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 744 OF 1993.

CUTTACK, this the 14th day of Sept., 1999.

CO RAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

....

1. Sudhansu Kumar Das,
Aged about 33 years,
S/o. late Dhirendra Kumar Das,
2. Sri Rasbihari Jena,
Aged about 32 years,
S/o. Pitambar Jena,
3. Dhirendra Kumar Beura,
Aged about 42 years,
S/o. Prahallad Beura,
4. Akshaya Kumar Sahoo,
Aged about 31 years,
S/o. Keshab Chandra Sahoo,
5. Nirmal Kumar Nayak,
Aged about 33 years,
S/o. Keshab Chandra Nayak,
6. Surendra Nath Barik,
Aged about 42 years,
S/o. late Bira Barik,
7. Uttam Kumar Mohapatra,
Aged about years,
S/o. Basanta Kumar Mohapatra,

Applicant Nos. 1 to 3 are working as Head Clerk,

Applicant Nos. 4 to 6 are working as Senior Clerk

and Applicant No. 7 is working as Junior Clerk in

the Mancheswar Carriage Repair Workshop, South

Eastern Railway, At/Po. Mancheswar, Dist. Khurda.

... APPLICANTS.

- VERSUS -

1. Union of India represented through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. Railway Board represented by its Chairman, Railway Bhawan, New Delhi.
3. General Manager, South Eastern Railway, Garden Reach, Calcutta, West Bengal.
4. Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta, West Bengal.
5. Chief Workshop Manager, Carriage Repair Workshop, South Eastern Railway, At/Po. Mancheswar, Dist. Khurda.
6. Chief Mechanical Engineer, South Eastern Railway, Garden Reach, Calcutta, West Bengal.

.... RESPONDENTS

By legal practitioner for applicants: M/s. A.K. Mohapatra,
A.K. Das, Advocates.

By legal Practitioner for Respondents : Mr. D.N. Mishra,
Standing Counsel
(Railways).

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O R D E R

(ORAL)

MR. SOMNATH SOM, VICE-CHAIRMAN:

J. J. M.
In this Original Application under section 19 of the Administrative Tribunals Act, 7(seven) applicants have prayed for a direction to the Respondents 1 to 4 to sanction creation of posts in the Personnel Department of Mancheswar Carriage Repair Workshop, as per the proposals of Respondent No. 5 for second phase requirements. Second prayer is for a direction to the Respondents to repatriate the employees of Mechanical Department who are working in the Personnel Department of Mancheswar Carriage Repair Workshop.

2. The case of applicants is that they are working in the clerical Group 'C' grade in the Personnel Department of Mancheswar Carriage Repair Workshop under South Eastern Railway. In pursuance of the proposal for creation of first phase requirements, Respondent No.1 sanctioned creation of 16 posts in the Personnel Department. Out of the 16 posts, 12 posts belong to Clerical Gr.C cadre. Respondent No.4 in his letter dated 9.11.1987 directed for creation of a separate and independent cadre for Carriage Repair Workshop, Mancheswar w.e.f. 1.1.1988. On creation of independent cadre, applicants opted to remain in the personnel Deptt. of Mancheswar, Carriage Repair Workshop. Deputy Director, Establishment (N), Railway Board, in his order dated 16.9.87 at Annexure-2, communicated sanction for creation of 425 non-gazetted posts in various grades of the Mancheswar Workshop. In this order, no sanction was communicated for creation of 4 posts according to first phase requirement and 17 posts for second phase requirements for Personnel Department. With the creation of new posts the work in the Personnel Department increased considerably but Personnel Department was not given any additional posts, thereby applicants were denied promotional benefits. Respondent No.5 moved the higher authorities for sanction of four posts in the first phase requirements and 17 posts in the second phase requirements but without any result. According to the yardstick for creation of posts, which is at Annexure-A/5, one clerk for 85 non running staff and one clerk for 80 running staff is required in the Personnel Branch excluding the provision for staff required for supervision, Gazetted Establishment,

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Passes, PTOs, Budget OT and Mileage work and roster section. As a result, the staff sanctioned was grossly disproportionate to work load. Applicants filed representations with reminders for creation of posts but without any result. It is also stated that certain staff of Mechanical Department have been brought on deputation and they are working in the Personnel Department of Mancheswar Carriage Repair Workshop. In the context of the above facts, applicants have come up with the prayers referred to earlier.

3. In their counter, respondents have stated that when the Carriage Repair Workshop was started, staff from different Units of SE Railway were brought over to join the workshop on deputation. At that time it was outlined that a cut-off date would be announced by the administration and with effect from that date the staff working in the CRW, Mancheswar would be constituted as a separate cadre. Later on, 01-01-1988 was announced as the cut-off date. According all the staffs working at CRW, Mancheswar were asked to give their option either to stay at workshop or to repatriate to their parent units. Most of the staffs including applicant preferred to continue in the CRW, Mancheswar. Applicants having opted for Personnel Branch were fitted in Personnel Branch cadre as per the availability of sanctioned posts. Initially Railway Board was requested to sanction 65 posts in the Personnel Branch upto phase-III in letter dated 28.12.1983 at Annexure-R/VI. In a revised proposal to the Railway Board, upto phase-III 48 posts were asked for, for the Personnel Branch. In response Railways sanctioned 19 posts one gazetted and 18 nongazetted in the first phase. It is stated that as there is no sanction

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post, the strength of Personnel Branch is less than what is required, to meet the exigencies of service, the Railway administration is utilising the staff belonging to Mechanical Department to manage the day-to-day work of Personnel Branch. ^{ing}
^{^ Jm}
It is submitted that the authorities in Carriage Repair Workshop have taken steps and moved the Railway Board for creation of posts but as no posts have been created by the Railway Board, no further step could be taken by the CRW authorities. It is submitted that there nothing arbitrary or illegal in not creating the posts and on the above grounds the Respondents have opposed the prayers of applicants.

4. We have heard Mr. A.K. Mohapatra, learned counsel for the Applicants and Mr. D.N. Mishra, learned Standing Counsel appearing for the Respondents and have also perused the records.

5. The first prayer of applicants is for a direction to the Respondents 1 to 4 to sanction posts for the Personnel Branch to cover the second phase requirements. It is stated by learned counsel for the petitioners that for all other Branches of the CRW, Mancheswar, a large number of posts have been sanctioned and thereby workload in the Personnel Branch has increased tremendously. ^{not} ^{^ Jm} Currently the total sanctioned strength of CRW, Mancheswar is 2076 and according to the yardstick, one clerk for 85 non-running staff and what is the justification for creating more posts beyond the yardstick excluding the requirement for supervision, budget, passes OT etc. As such posts were created, the applicants are being denied the promotional facilities. It is also stated that in the absence of creation of posts in the Personnel Branch, 20

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persons from Mechanical Deptt. have been brought on deputation to make up the work-load in the Personnel Branch. Because of such deputation of staff from Mechanical Branch to the Personnel Branch and further giving them promotions against those vacancies, ^{on the} and other hand, nonsanction of posts, the applicants have been deprived of getting promotions. We have considered the above submission of learned counsel for applicants carefully. Creation of posts in a cadre is a matter for the Departmental Authorities and the Tribunal has no means or data to decide how many posts are required for a particular office. Applicants have indicated the yardstick that one clerk for 85 nonrunning staff. Going by this yardstick and the number of 1859 staff actually in position, the additional requirement of staff as per the yardstick, is only marginally more than ^{what is} the work available. ^{^ J Som} There is no material before the Tribunal in the pleadings of the parties regarding the norms of creation of staff with regard to supervision, budget, OT and mileage etc. It is therefore, ^{J Som} not possible for the Tribunal to come to a finding that the staff in position is much less than what is the yardstick requirement. Moreover, the Tribunal can not direct the Departmental Authorities to create posts. This is entirely for the Departmental Authorities. In view of this, we hold that the Tribunal can not direct the Respondents 1 to 4 to create posts for personnel Branch of Carriage Repair Workshop of Mancheswar. The first prayer of the applicants is therefore, rejected.

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6. The second prayer of applicant is for repatriation of the persons who have been brought over from the Mechanical Deptt to attend to the work load of the Personnel Branch of CRW, Mancheswar. In the absence of creation of posts and in view of the work load obviously these persons have been redeployed by way of deputation to work in the Personnel Branch. It is open for the Departmental Authorities to bring people on deputation to attend to some item of work for which there is need for more hand. Applicants can have no say with regard to bringing persons on deputation and for their repatriation. This prayer is also held to be without any merit.

7. In the result, therefore, the application is held to be without any merit and is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
17.4.99

KNM/CM.