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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.511 OF 1994
Cuttack, this the 4th day of January 1994

Manmath Kumar Das and others Applicants

Vrs.

Union of India and others Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

Am
(A.K.MISRA)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.511 OF 1994

Cuttack, this the 4th day of January 1999

CORAM:

**HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI A.K.MISRA, MEMBER(JUDICIAL)**

.....

1. Manmath Kumar Das
aged about 23 years
son of Sri Dibyasingh Das
At/PO-Harirajpur,
Dist.Puri.
2. Manisankar Dasgupta
aged about 22 years
son of N.P.Sengupta
of village-Matiapala,
PO-Gardapur,
Dist.Bhadrak.
3. Aswaini Kumar Jena
aged about 25 years
son of Paramananda Jena
of village Barapada
PO-Godiput,Matiapada
Dist.Puri.
4. G.K.Suryaprakas
aged about 26 years
son of G.Y.Apadu
of village Kolabanali,
PO-Pallapuram,
Dist.Srikakulam
5. Ramesh Chandra Maharana
aged about 24 years
s/o B.N.Maharana
At.-Khurda By-pass near
S.T.Check Gate, Prananath Marg,
Dist.Khurda.
6. G.Lakshman Reddy
aged about 25 years
s/o G.Mukunda Reddy
Vill-Kalagampuram
PO-Kalyanpuram
Dist.Ganjam

7. Niranjan Baidya (A)
aged about 24 years
s/o Dutiya Baidya
At/PO-Langaleswar
Dist.Ganjam.
8. Purna Chandra Behera
aged about 20 years
Mokara s/o Budhia
Village/PO-Kudiary
Dist.Khurda.
9. Bijay Kumar Baidya,
aged about 25 years
son of Balaram s/o Ananda
At/PO-Langaleswar
Dist.Ganjam.
10. Niranjan Baidya (B)
aged about 23 years
s/o Bhima s/o Sanya
At/PO-Langaleswar,
Dist.Ganjam.
11. K.Nookaya Reddy
aged about 25 years
son of K.Suryanarayan
At-Loco Colony,
PO-Jatni,
Dist.Khurda.
12. Duryodhar Pradhan
aged about 22 years
s/o Aparti s/o Gopi
At/PO-Beraboi, Dist.Puri.
13. Nageswar Barik
aged about 26 years
s/o Bhagirathi Barik
At-Balichhak Sahi
PO-Jatni, Dist.Khurda.
14. Khetrabasi Maharana
aged about 26 years
s/o Chakradhar Maharana
At/PO-Kudiary
Dist.Khurda.
15. Arun Kumar Patnaik
aged about 25 years
s/o Niranjan Patnaik
At/PO-Sabilia, Dist.Ganjam.

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16. Jagu Swain, aged about 24 years
s/o Jaya Swain
of village Posal
PO-Hakpada, Dist.Puri.
17. Sarat Kumar Swain
aged about 26 years
s/o Dwijabar Swain
At-Pidhapatna
PO-Hakpada, Dist.Puri.
18. B.Prakas Rao
aged about 24 years
son of B.Raja Rao,
At-Balichhak Sahi, PO-Jatni
Dist.Khurda.
19. Ramesh Chandra Behera
aged about 25 years
s/o Somanath Behera
At-Badaichapur, PO-Jatni
Dist.Khurda.
20. Bibhuti Bhusan Samantaray
aged about 24 years
At/PO-Brajamohanpur,
Dist.Khurda.
21. Amin Samantray
aged about 24 years
s/o R.C.Samantray
At-Sadheigada
PO-Brajamohanpur,
Via-Narangarh
Dist.Khurda.
22. Laxmidhar Panda
aged about 26 years
s/o Duryodhan Panda
At/PO-Harirajpur
Via-Jatni,
Dist.Puri.
23. S.Kesava Reddy
aged about 26 years
son of S.Apana
Near Bhagabati Temple,
Loco Colony,
PO-Jatni, Dist.Khurda.
24. Prafulla Behera
aged about 24 years
son of Sudamo Behera
At/PO-Harirajpur, Via-Jatni, Dist.Puri.

25. Rajendra Kumar Sahu
aged about 25 years
s/p Pandaba Sahu
At/PO-Langaleswar
Dist.Ganjam
26. Subhas Sethy
aged about 25 years
s/o Surendra Sethy
Village-Jamuna, PO-Argul,
Dist.Khurda.
27. Gandharb Jena
aged about 26 years
Charan S/o Benu
Village-Jamuna
PO-Argul,Dist.Khurda.
28. Prakas Kumar Jena
aged about 25 years
s/o Harihar Jena
village-Barapada,
PO-Godiputamatiapada
Dist.Puri.
29. Sanatan Pradhan
aged about 26 years
s/o Rajan Pradhan
of village -Bachara
PO-Jatni,Dist.Khurda.
30. Hadubandhu Nayak
aged about 24 years
s/o Raghunath Nayak
of village-Barapada
PO-Godiputamatiapada,Dist.Puri.
31. Jagannath Jena
aged about 25 years
s/o Golak Jena
At-Hat Bazar,PO-Jatni,
Dist.Khurda.
32. Dibakar Denga, aged about 25 years
s/o Laxmidhar Dengeya
At-Barapada,P.O-Godiputamatiapada
Dist.Puri.
33. Surendra Parida, aged about 25 years
s/o Bikram Parida, At-Bachara
PO-Jatni, Dist.Khurda.
34. Prafulla Kumar Ranasingh
aged about 25 years
s/o Baira At-Pradhansahi,
PO-Panchagaon, Dist.Khurda.

35. Ratnakar Muduli
aged about 24 years
s/o Laxman Muduli, At-Aragada
PO-Godiputmatiapada, Dist.Puri.

36. Trilochan Sahu, aged about 25 years
son of Damodar Sahu, Post Office Road,
PO-Jatni, Dist.Khurda.

37. Basudev Prasad Mohanty
aged about 25 years
Dak Bungalow Road, Jatni
Dist.Khurda.

38. Adikanda Mohanty, aged about 24 years
s/o Lokanath Mohanty
Loco Colony, PO-Jatni
Dist.Khurda.

39. Banabehari Samantray
aged about 25 years
s/o Bhuti
At/PO-Argul,
Dist.Khurda.

40. Biranchi Narayan Samantray
aged about 24 years
s/o Kelucharan Samantray
At-Sadehigada, Gopinathpur
PO-Brajamohanpur, Dist.Khurda.

41. G.MangaRao, aged about 24 years
s/o G.T.Road, Qr.No.D/29-A,
Traffic Colony, Khurda Road,
PO-Jatni, Dist.Khurda.

42. Sukanta Kumar Das
aged about 26 years
s/o Narasingha Das
At-Mahtab Nagar, Kudiary,
PO-Jatni, Dist.Khurda.

43. Pabitra Mohan Nayak
aged about 26 years
s/o Ananta Nayak
At-Podapada,
PO-Argul, Via-Jatni, Dist.Khurda.

44. Kirti Kumar Patnaik, aged about 25 years
s/o Gobinda Patnaik, Qr.No.D/25-B
Traffic Colony, Khurda Road,
PO-Jatni, Dist.Khurda.

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45. Sarbeswar Parida
aged about 24 years
s/o Narasingha Parida
At-Sadangoi,
PO-Sadangoi, Dist.Puri.

46. K.Jayakrishna,
aged about 25 years
s/o K.G.N.Rao,
K.Ramachandra Rao Quarters
Hat Bazar, PO-Jatni, Dist.Khurda.

47. Laxmidhar Barik, aged about 25 years
s/o Rajkishore Barik
of village-Uperbasta?
PO-Bhimpur, Via-Jatni
Dist.Khurda.

48. Ranjan Kumar Nayak
aged about 25 years
s/o Bana Naik
At/PO-Langaleswar
Harijan Street
Dist.Ganjam.

49. Narahari Sethi, aged about 25 years
s/o Khetrabasi Sethy of village Dampur
PO-Beraboi, Dist.Puri.

50. Laxminarayan Behera
aged about 25 years
s/o Punia Sethi
At-Gopabandhunagar
PO-Balugaon,
Dist.Khurda.

51. Prakash Chandra Biswal
aged about 24 years
s/o Kunja Biswal of village-Godasahi
PO-Godiputmatiapada
Dist.Puri.

52. Kanakeswar Sahu
aged about 25 years
s/o Khalli Sahu
At/PO-Sabilia
Dist.Ganjam.

53. Sarat Chandra Behera
aged about 25 years
s/o Dandasi Behera
At/PO-Langaleswar
Dist.Ganjam.

54. Harekrishna Mahal
aged about 24 years
s/o Manu Mahal

of village Barapada
PO-Godiputmatiapada
Dist.Puri.

55. Simachal Maharana
aged about 26 years
s/o Prahallad Maharana
At/PO-Sabilia,
Dist.Ganjam

56. Ramachandra Behera
aged about 24 years
s/o Nilakantha Behera
At/PO-Langaleswar
Dist.Ganjam.

57. Siba Prasad Patra
aged about 25 years
s/o Khetrabasi Patra
of village-Patharakata
PO-Khuntuni,
Via-Athagarh, Dist.Cuttack.

58. Trinath Jena
aged about 25 years
s/o Baya Jena of village-Udayapur
PO-Beraboi, Dist.Puri.

59. Bijayananda Bhuyan
aged about 21 years
s/o Paramananda Bhuyan of village-Podapada
PO-Argul, Dist.Khurda.

60. Prafulla Kumar Sabat
aged about 22 years
s/o Gobinda Sabat
Loco Colony
Jatni,
Dist.Puri.

61. Gopinath Jajhar Singh
aged about 23 years
s/o Ananta Jujhar Singh
At/PO-Langaleswar
Dist.Ganjam.

62. Sayed Hyder
aged about 24 years
s/o Hyder Sarif
At-Raja Bazar, P.O-Jatni
Dist.Khurda.

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63. Debendranath Martha
aged about 20 years
s/o Narayan Martha
of village-Haripur
PO-Godiputmatiapada
Dist.Puri.

64. Naresh Kumar Jaiswal
aged about 21 years
s/o Mewalal Jaiswal
Qr.No.158-D-Side
Loco Colony, Khurda Road, Dist.Khurda.

65. Prasanna Kumar Mohapatra
aged about 22 years
s/o Surendra Mohapatra of village Harirajpur
PO-Harirajpur
Dist.Puri.

66. Santosh Kumar Behera
aged about 23 years
s/o Bauria Behera
Qr.No.A.12/L, Loco Colony
PO-Jatni,Dist.Khurda.

67. B.V.Ramana
aged about 23 years
s/o B.S.Narayana
Qr.No.822 (Side)
Loco Colony
PO-Jatni,Dist.Khurda.

68. Ramesh Chandra Behera (B)
aged about 24 years
s/o Pandari Behera of village-Saranai
PO-Belpada
Via-Banapur, Dist.Khurda.

69. Dibakar Maharana
aged about 25 years
s/o Dharmo Moharana
At/PO-Kudiary
Dist.Khurda.

70. Ajaya Kumar Parida
aged about 24 years
s/o Dibakar Parida
of village-Goradapidha
PO-Sadangoi,
Dist.Puri.

71. Dhadeswar Nayak
aged about 25 years
s/o Kanduri Nayak of village Gandapada
PO-Singhabrahmapur
Dist.Puri.

72. Pabitra Mohan Panda
aged about 24 years
s/o Lingaraj Panda
of vill-Gandapada
PO-Singhbrahmapur
Dist.Puri.

73. Prasanta Kumar Gaud,
aged about 23 years
s/o Gaurang Gaud
Raja Bazar,
PO-Jatni,Dist.Khurda.

74. Jogendra Jena
aged about 26 years
s/o Yudhistir Jena of
vill-Podapada
PO-Argul,Dist.Khurda.

75. S.Suresh Kumar
aged about 24 years
s/o K.S.Pillai
Qr.No.M/13,
Housing Colony,
Ramachandrapur,
PO-Jatni,Dist.Khurda.

76. Dipak Kumar Khuat
aged about 25 years
s/o Balakrishna Khuat
Qr.No.172/13
Loco Colony,
PO-Jatni,Dist.Khurda.

77. Gobardhan Parida
aged about 24 years
s/o Kirtan Parida of village-Humar
PO-Beraboi,Dist.Puri.

78. Debendra Prasad Maharana
aged about 25 years
s/o Hari Maharana, Loco Colony,
Jatni, Dist.Khurda.

79. Satish Kumar Mohanty
aged about 24 years
s/o Bichitrananda Mohanty of village Barapada
PO-Godiputmatiapada
Dist.Puri.

80. Biswambar Pradhan
aged about 26 years
s/o D.Pradhan, At/PO-Harirajpur,
Dist.Puri.

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81. Ranjit Mahanty, aged about 25 years
s/o L.D.Mohanty, Loco Colony, PO-Jatni,
Dist.Khurda.

82. Ramesh Chandra Pradhan
aged about 24 years
s/o Bhagat Pradhan
At/PO-Langaleswar
Dist.Ganjam.

83. K.Satyanarayana, aged about 25 years
s/o K. Adeya, Qr.No.A/8/Q., Loco Colony,
PO-Jatni,Dist.Khurda Applicants

By the Advocates - M/s A.S.Naidu
P.K.Mohapatra &
A.K.Rath.

Vrs.

1. Union of India
represented through the Secretary to
Government of India in Railway Department,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. South Eastern Railway,
represented through the General Manager
Garden Reach,
Calcutta-700 043.
3. Divisional Railway Manager,
Khurda Road,
At/PO/PS/Munsif/Dist.Khurda ... Respondents

By the Advocates - M/s B.Pal &
O.N.Ghosh

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of
Administrative Tribunals Act, 1985, eighty-three applicants,
who have been permitted to jointly pursue this application,
have prayed for a direction to the respondents to appoint
the applicants as well as all other persons who had appeared
at the recruitment test held in the year 1992 in pursuance
of the notice dated 13.8.1990 in Group D category of posts



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within a stipulated date after publishing the result of the recruitment test. By way of interim relief, the applicants had prayed for a direction to the respondents not to make any appointment in Group-D category of posts in South Eastern Railway, Khurda Road Division, during the pendency of the O.A. On the date of admission of this O.A. on 7.9.1994 by way of interim relief it was ordered that any appointment in Group-D category in Khurda Road Division as fresh faces would be subject to the outcome of this case.

2. Facts of this case, according to the applicants, are that the S.E.Railway authorities in a notice dated 13.8.1990 (Annexure-1) invited applications from children of Railway employees who have retired on superanuation or voluntarily after 1.1.1987 or will be retiring from service by 31.12.1993, for enrolment as fresh faces as substitutes for utilisation on day to day casualties. Certain other conditions were also mentioned in this notice. It is not necessary to refer to all those conditions except to note that educational requirement was Class VIII pass with preference being given for higher educational qualification or vocational training. Age of the candidate was required to be between 18 and 28 years, with five years relaxation for reserved community candidates. It was also mentioned in the notice that only one application

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will be received from a family of Railway servant retired or retiring in the manner indicated earlier. It was also provided that in case of deserving candidates with special merits, not covered by the above norms, the competent authority reserves the right of applying its discretion in giving special consideration to those candidates. The applications were required to reach the office of Senior Divisional Personnel Officer, S.E.Railway, Khurda Road, on or before 15.9.1990. The applicants' case is that in response to the above notice, about 18000 applications were received for being appointed in Class III Group-C posts within the stipulated date. After preliminary scrutiny, the departmental authorities issued call letters to all the applicants and others indicating the date of interview and the roll number assigned to the candidates. One such call letter issued to applicant no.1 is at Annexure-2. He was called to an interview on 17.12.1991. The applicants further state that accordingly interview/test was conducted on different dates in the year 1991-92 and this was completed. All the applicants appeared in the interview/test in the year 1991 or January 1992 and according to them, have done fairly well. But the departmental authorities have not declared the results and in the meantime, have appointed several outsiders on extraneous considerations.

One such order given to an outsider Arjun Samal for engagement as a substitute Khalasi is at Annexure-3. The applicants further state that they have written several letters and submitted a number of representations and they have been assured that result of the test will be published at an early date, but no action has been taken. In view of this, the applicants have come up with the prayers referred to earlier.

3. Respondents in their counter have submitted that a proposal for engagement of fresh persons/outsiders as substitutes in Mechanical and Traffic Departments of S.E.Railway, Khurda Road Division, was initiated after obtaining the sanction of the General Manager, S.E.Railway. The base year was taken as 1.1.1987 and the General Manager approved the proposal in principle for engagement of 500 fresh persons/outsiders as substitutes in Group-D category in Mechanical and Traffic Departments of Khurda Road Division. On receipt of sanction order, a notification was issued on 13.8.1990 inviting applications from the wards of Railway employees who have retired on superannuation or voluntarily retire during the period between 1.1.1987 to 31.12.1993 for enrolment of such outsiders/fresh persons as substitutes for utilisation against day to day casualties.

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The notice dated 13.8.1990 indicated the different terms and conditions and it was mentioned that the inviting of applications is for enrolment of names to prepare a list of substitutes for utilisation against day to day casualties.

The respondents have submitted that in response to the notice about 3000 applications were received from the wards of Railway employees. A Screening Committee was constituted consisting of four Railway officers to conduct the screening test which was held on different dates in 1991-92. While such test was being continued, complaints were made regarding the test to the Vigilance Organisation of the Railways which seized all the relevant documents and therefore, the Screening Committee was forced to keep the test in abeyance till finalisation of the enquiry by the Vigilance Organisation. The respondents have stated that Divisional Railway Manager (respondent no.3) who is in charge of supervising screening test has not received any final report about the conclusion of the enquiry by the Vigilance Department nor have the documents seized by the Vigilance Department been returned to the Khurda Road Division. Because of this, the selection procedure could not be completed. The respondents have further stated that the notice was not for giving the selected persons regular appointment but only for enrolling them as substitutes to be

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engaged against day to day casualties. As regards engagement of Arjun Samal, the respondents have submitted in paragraph 12 of the counter that Arjun Samal was empanelled as a substitute not in pursuance of the notice at Annexure-1 but in consequence of other factors which, however, have not been spelt out by the respondents. On the above grounds, the respondents have opposed the prayer of the applicants.

4. We have heard the learned lawyer for the applicants and the learned Senior Counsel, Shri B.Pal appearing on behalf of the respondents and have also perused the records.

5. in course of hearing, the learned lawyer for the applicants submitted that in the meantime the Vigilance Organisation of the Railways have concluded the enquiry and returned the original documents to the concerned authorities and the respondents should be asked to verify and report on this. In view of this, the learned Senior Counsel appearing on behalf of the respondents was asked to report on the above point along with information if before seizure of the documents, interview/test of all eligible candidates was completed or not and what are the findings of the Vigilance Organisation with regard to the interview/test. For giving this information, four weeks time was allowed. But in spite of passage of much longer time, the learned Senior Counsel

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appearing on behalf of the respondents did not submit any information on this point.

6. In the above context, we have considered the submissions made by the learned counsels of both sides. The admitted position was that there were allegations with regard to the interview/test conducted by the Screening Committee and on receipt of such allegations, enquiry was taken up by the Vigilance Organisation of the Railways which seized all the records. Under these circumstances, no fault can be found with the respondents for not publishing the results of the test. The applicants have prayed that the respondents should be directed to publish the result of the test within a time limit to be fixed by the Tribunal. It would not be correct to give such direction because in case during the enquiry by the Vigilance Organisation large scale irregularities have been proved, then the authorities will be within their rights to cancel the entire test. Without knowing what the allegations are and what are the results of the enquiry, it would not be correct to issue a blanket direction of the type prayed for by the applicants. At the same time, it is to be noted that the Vigilance Department seized the records sometime in January 1992 and started their enquiry. More than five years have passed in the meantime. It is, therefore, necessary that

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