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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 575 OF 1994.

Cuttack, this the 18th day of July, 2000.

ANANDA CHANDRA SWAIN & ORS.

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APPLICANTS.

VRS.

UNION OF INDIA & OTHERS.

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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)

S. Somnath Som
 (SOMNATH SOM)
 VICE-CHAIRMAN 2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK.

Original Application No.575 OF 1994.
Cuttack, this the 18th day of July, 2000.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

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

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1. Ananda Chandra Swain,
S/o.Lakhan Swain,
A permanent resident of Village:Pachhatira,
Po:Kenduapada,Dist:Bhadrak.
2. Gayadhar Pal,S/o.Jagabandhu Pal,
A permanent resident of At:Rabana,
PO:Jakhapura,Dist:Jajpur.
3. G.Papa Rao,S/o.Apana Rao,
A permanent resident of At/Po:Palasa,
Dist:Srikakulam,
4. Nidhia Rout,
S/o.Suduria Rout,
a permanent resident of
At/Po:Antia,Dist:Jajpur.
5. Suduria,S/o.Nakua,a permanent resident
of Village/Po:Antia,Dist:Jajpur.
6. Babaji Das,S/o.Narayan Das,a permanent
resident of Vill.Sataman,Po:Baulamal,
Dist:Jajpur.
7. Dhania,S/o.Jogi,a permanent resident of
Vill.:Anasandha,Po:Jenapur,Dist.Jajpur.
8. Anu Bahalia,S/o.Dhruba Bahalia,A permanent
resident of Vill.:Satamana,Po:Baulamal,
Dist.Jajpur.
9. Jogi,S/o.Sumanta,A permanent resident of
Vill.Sree Chanpur,Po.Antia,Dist.Jajpur.
10. Murali,S/o.Anta,A permanent resident of
Village-Harispur,Po:Tarpur,Dist.Cuttack.
11. Raghunatha,S/o.Debena,A permanent resident
of Village-Rajadu,Po:Jhadagrama,Dist.Midnapur.
12. Ekadasi Singh,S/o.Charana Singh,A permanent
resident of Vill.Nimidha,Po:Badalu,Dist.Dhenkanal.

13. Jaladhara Pradhan, S/o. Bhagaban Pradhan,
A permanent resident of Vill. Khanabari,
Po: Andhaipali, Dist. Bhadrak.

14. Sasibusana Jee, S/o. Jaikrushna Jee,
A permanent resident of village-Gunapur,
Po: Bhagibindha, Dist. Bhadrak.

15. Bhuban Swain, S/o. Das Swain, A permanent
resident of Village-Dando, Po: Kenduapada,
Dist. Bhadrak.

16. Maheswar Mallik, S/o. Sankara Mallik, A
permanent resident of Village-Kalahandia,
Po. R.N. Betara, Dist. Bhadrak.

17. Dharani, S/o. Lakan, A permanent resident
of Village/Post: Antia, Dist. Jajpur.

18. Naba Samal, S/o. Bholi Samal, A permanent
resident of Village/Po: Bantala,
Dist. Cuttack.

19. Ainta Ojha, S/o. Fakira Ojha, a permanent
resident of Village/Post: Antia,
Dist. Jajpur.

20. Giridhari Ghadai, S/o. Nabaghana, A
permanent resident of Village/Post:
Mantira, Dist. Jajpur.

21. Narayana Pradhan, S/o. Golakha Pradhan,
A permanent resident of Village:
Jamajhadi, Po: Panchagar, Dist. Khurda.

22. Banambar Swain, S/o. Rusiananda Swain,
A permanent resident of Village: Khetrapal,
Po: Kothasahi, Dist. Cuttack.

23. Babaji Charan Pal, S/o. Sanatan Pal, A
permanent resident of Vill. Kendudeep.,
Po: Jakhapura, Dist. Jajpur.

24. Banamali Samantaray, S/o. Ananta Samantray,
A permanent resident of Vill. Khadipada,
Po: Kalupada, Dist. Khurda.

25. Govinda Lenka, S/o. Magu Lenka,
A permanent resident of Village: Bharatapur,
Po: Antia, Dist. Jajpur.

26. Bhaskar Behera, S/o. Hari Behera, A permanent
resident of Village: Sagarpasi, Po: Chaulia,
Dist: Dhenkanal.

27. Madhu Jena, S/o. Naba Jena, A permanent resident,
of Village/Po: Antia, Dist. Jajpur.

28. Bata Sahu, S/o, Nanda Sahu, A permanent resident of At:Raghunathpur, Po: Thanuala, Dist:Jajpur.

29. Laxhman Pradhan, S/o, Mani Pradhan, A permanent resident of Vill:Krushnapur, Po:Saragada Makundapur, Dist:Jajpur.

30. Ghana Rout, S/o, Dinabandhu Rout, A permanent resident of At:Kamagada, Po:Antia, Dist:Jajpur.

31. Puria Behera, S/o, Netra Behera, A permanent resident of At:Ramachandrapur, Po:Saragada Makundapur, Dist:Jajpur.

32. Bata Sahu, S/o, Khetrabasi, A permanent resident of At:Kamagara, Po:Antia, Dist:Jajpur.

33. Seshadeba Swain, S/o, Babaji Swain, A permanent resident of At:Badapokharia Pada, Po:Kalupada, Dist:Khurda.

34. Nityananda Swain, S/o, Sankar Swain, A permanent resident of At:Dando, Po:Kendupada, Dist:Bhadrak.

35. Ghanashyam Swain, S/o, Nilamani Swain, A permanent resident of At/Po:Bantala, District:Jajpur.

36. Hura Parida, S/o, Hari Parida, A permanent resident of At:Damodarpur, Po:Jakhapura, Dist:Jajpur.

37. Kunja Behera, S/o, Sauri Behera, A permanent resident of Vill./Po:Bantala, Dist:Jajpur.

38. Fagu Sahu, S/o, Gandharba, A permanent resident of village/Post:Bari Thengada, Dist:Cuttack.

39. Kanhai, S/o, Jogi, A permanent resident of Vill./Po:Mantira, Dist:Jajpur.

40. Jogi Barik, S/o, Panchu Barik, A permanent Resident of At/Po:Antia, Dist:Jajpur.

41. Daitari Rout, S/o, Chakara, A permanent Resident of Village-Chemg, Gadhia, Po:Randia, Dist:Bhadrak.

42. Jogi Rout, S/o, Panchu Rout, A permanent resident of Vill/Po:Antia, Dist:Jajpur.

(All are holders of Group 'D' posts in South Eastern Railway and working as Gangmen. Applicant

Nos.1 to 24, 26 to 32, 35 to 42 are working under the Permanent Way Inspector(Construction) South Eastern Railway,Dhenkanal,At/Po and District-Dhenkanal. The applicant No.25 is working under the Chief Project Manager (Construction),Chandrasekharpur,Bhubaneswar, South Eastern Railway,District:Khurda.Appl.No.33 and 34 are working under Permanent way Inspector (Construction),Budhapanka,At/Po:Budhapanka, Dist:Dhenkanal.

.... APPLICANTS.

By legal practitioner; M/s. P. PALIT, B. K. Rout, Advocates.

- Versus -

1. Union of India represented through General Manager, South Eastern Railway,Garden Reach,Calcutta,West Bengal.

2. Senior Project Manager (CONSTRUCTION),South Eastern Railway,Chandrasekharpur,Bhubaneswar,Dist:Khurda.

3. Chief Project Manager (Construction),South Eastern Railway,Chandrasekharpur,Bhubaneswar,Dist:Khurda.

4. Permanent Way Inspector (Construction), South Eastern Railway,Dhenkanal, At/Po/District: Dhenkanal.

5. Permanent Way Inspector (Construction), South Eastern Railway,Budhapanka, At/Po:Budhapanka,Dist:Dhenkanal.

6. Senior Personnel Officer(Construction), South Eastern Railway,Garden Reach, Calcutta,West Bengal.

... Respondents.

By legal Practitioner; M/s. B. Pal. O. N. Ghosh, Senior Counsel.

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O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, 42 applicants, who have been permitted to pursue this Original Application jointly have prayed for a direction to the Respondents to allow the applicants regular scales of pay and allowances w.e.f. 1.4.1973 as per the decision contained at Annexure-A/2. It is to be noted that in order dated 6.7.1993, at Annexure-A/1, certain staffs working in Construction organisation were regularised in Gr.D posts against 40% PCR posts w.e.f. 1.4.1973. In the letter at AnnexureA/2, it was indicated that those whose regularisation has been put back to 1.4.1973, should be given appropriate regular scale of pay with effect from 1.4.1973. Petitioners' grievance is that inspite of clear orders on this point, the arrears have not been paid to them and that is why, they have come up in this Original Application with the prayers referred to above.

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2. Respondents in their counter, have stated that all the applicants except Seshadeba Swain, Applicant No. 33, were casual workers, who have been regularised against PCR posts and their regularisation has been dated back to 1.4.1973. They have also admitted that all these 41 petitioners baring Seshadeba Swain, Applicant No. 33, are entitled to differential arrears of scales of pay from 1.4.1973. They have stated that because such payment requires reference to old records, this has taken time. They have also stated that because of non-availability of old records, a proposal has been sent to the Railway Board to settle their payment urgently. They have

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also stated that the applicants were asked to produce documents, which are in their possession with regard to their engagements and payments made to them from 1.4.73.

As regards, applicant No. 33, Respondents have stated that this applicant, Seshadeba Swain, Son of Babaji Swain is not a casual worker nor has he been regularised in the order at Annexure-A/2 enclosed by the applicants themselves. On the basis of the above pleadings of the parties, it is clear that the claim of the applicants baring one is admitted by the Respondents.

3. In this case, applicants have based their claim of payment of arrears on the basis of their order of regularisation at Annexure-A/1. We have verified Annexure-A/1 and found that the name of Shri Seshadeo swain does not appear in this order. In view of this, it is clear that through Annexure-A/1, Seshadeo Swain, applicant No. 33 has not been regularised against a PCR post. In view of this, the OA is dismissed so far as Seshadeo Swain, applicant No. 33 is concerned. As regards rest 41 applicants, Respondents have stated that because of nonavailability of records, they are taking time to work out the details and make the payment. A proposal has also been sent to the Railway Board for early finalisation of the matter. At the same time, it must be noted that the applicants are asking for arrears which relates to a period more than 20 years ago and it is necessary that the Railway Authorities to bring the matter to a finality by calculating and making payments of the amount. In consideration of this, we direct that the Respondents shall calculate and make payment of the amount, which is due to these applicants in terms of the letter at Annexure-A/2, within

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a period of six months from the date of receipt of a copy of this order, if not already paid. We also make it clear that while making such payment, amounts already paid to them, will have to be deducted.

4. With the above directions, the Original Application is disposed of. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

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SOMNATH SOM
VICE-CHAIRMAN
18.7.2000

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