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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 610 OF 1994

Cuttack this the 10th day of February, 2000

N.S.N.Murthy and others

Applicants

-Versus-

Union of India & Others

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

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12/2/2000*
(G.NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 610 OF 1994
Cuttack this the 10th day of February, 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

1. N.S.N. Murthy, S/o. Nagaraju, Supervising Mistry, O/O Dy.CEE/CON/S.E.Rly/Visakhapatnam
2. V.A. Saradamba, D/o. V.N. Murthy, HSF Grade II, Dy.CEE/CON/S.E.Rly/Visakhapatnam's Office
3. P.P. Reddy, S/o. Appa Rao, Xerox Operator, Dy.C.E.E.(CON/S.E.Rly/Visakhapatnam's Office
4. G.Jeevan Kumar, S/o. G.T.Das, HSF Gr.II, C/o.EFO/OHE/C/S.E.Rly/VSKP
5. P.Appa Rao, S/o. Naganna, Ferro-Printer, C/o. Dy.CEE/CON, S.E.Rly/VSKP
6. T.Appayyamma, W/o. T.Narayana Rao, Female Khalasi, C/o.EFO/OHE/CON/S.E.Rly
7. A.Ummarkoya, S/o. A.Fanai, Fitter Gr.II, C/o.EFO/OHE/CON/S.E.Rly/VSKP
8. L.Suryanarayana, C/o. EFO/OHE/CON Fitter Gr.II, S.E.Rly/VSKP
9. Moram Singh, S/o. Sardar Fitter Gr.II, C/o. EFO/OHE/CON/S.E.Rly/VSKP
10. R.Surya Rao, S/o. Tirupathi Rao, Khalasi, C/o.EFO/C/CON/S.E.Rly, Visakhapatnam
11. A.Chandrayya, S/o. Somayya, Khalasi, C/o. EFO/G/CON/S.E.Rly/VSKP
12. T.Ramulu, S/o. Appayya, Khalasi, C/o.EFO,S.E.Rly/VSKP
13. D.Yellayya, S/o. Bangarayya, Khalasi, C/o.EFO/G/C/S.E.Rly/VSKP
14. M.Atchim Naidu, S/o.ramu Naidu, Khalasi, C/o. TOW/HQ/CON/S.E.Rly/VSKP
15. K.Appa Rao, S/o. Appala Swamy, Hammer Man, C/o.EFO/OHE/C/S.E.Rly/VSKP
16. M.Sanni Babu, S/o. Chinnayya, Khalasi, C/o.EFO/OHE/C/S.E.Rly/VSKP
17. A.Lalitha, D/o. V.S.N.Murthy, Adhoc Junior Clerk, CPM/CON's Offic, S.E.Rly/VSKP

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18. Sonamathi, W/o. Ramu, Khalasi, C/o.
 DV.CEE/CON/S.E.RLy/VSKP

19. T.Bandelu, S/o. Simhachalam, Khalasi, C/o.
 Dy.CEE/CON@S.E.RLy/VSKP

20. Y.Jagannadham, S/o. Balaram, Fitter Gr.III, C/o.
 EFO/OHE/C/S.E.Rly/VSKP

21. S.Krishna Rao, S/o. Mallayya, Khalasi,
 C/o.EFO/OHE/C/S.E.Rly/VSKP

22. V.Suryanarayana, S/o. Narayana, Khalasi,
 C/o.ERO/OHE/C/S.E.Rly/VSKP

23. K.Appa Rao, S/o. Guruvulu, Khalasi, C/o.
 EFO/OHE/C/S.E.Rly/VSKP

... Applicants

By the Advocates : M/s.G.A.R.Dora
 G.P.R.Dora
 V.Narasinh

-Versus-

1. Union of India through the Chief Administrative Officer, Project, S.E.Railway, At/Chandrasekharpur, PO: Bhubaneswar, Dist: Khurda
2. F.A. & C.A.O. (S&C), S.E.Railway, Visakhapatnam(AP)
3. Chief Project Manager, S.E.Railway, Visakhapatnam (AP)

... Respondents

By the Advocates : M/s.D.N.Mishra
 S.K.Panda

ORDER

MR.G.NARASTHAMAM, MEMBER(JUDICIAL): 23 applicants have filed this application for issue of direction to the respondents to publish Construction Divisionwise seniority list in accordance with the Railway Board's order under Annexure-A/1; not to shift the applicants out of Waltair Division till the publication of their seniority list; to quash the order under Annexure-A/4 dated 17.6.1994 passed by the F.A. & C.A.O(C&S), Railways, Visakhapatnam directing various railway authorities at Visakhapatnam to redeploy the surplus staff.

The applicants ~~are~~ working under S.E.Railway, have Visakhapatnam stated that they joined construction project as labourers and were posted in Survey and Construction under Waltair Division between 1963-1980. By the time this Original Application was filed in October, 1994 they were in un-skilled, semi-skilled and skilled categories under different dates in that Division consisting of several wings. As per Railway Board Circular No.64/87 dated 23.4.1987 (Annexure-A/1), for engagement/retrenchment/redeployment division-wise seniority list has to be adopted and this is mandatory. Again within each Department seniority list will have to be prepared category-wise. There are many staff in the Waltair Division holding lien in the Open Line. Such Open Line staffs have to be repatriated because of surplus. In case such staff opt to remain under Construction Project, they will have to be redeployed first. As per circular dated 27.7.1979 of the Railway Board under Annexure-A/3, in the event of curtailment of cadre, with a view to bringing out uniformity in the matter and as a general rule, the juniormost employee should be transferred whether from one Division to another or from one Project to another. In spite of this statutory direction of the Railway Board, Division-wise/projectwise seniority list of project labourers had not been prepared which resulted in arbitrary and discriminatory transfers to other projects. Waltair Division has several wings. The applicants have no grievance if they are transferred to any Wing within the Waltair Division. But in the absence of seniority list, it is not possible to know who are the juniors to

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be retrenched or to be redeployed in other projects. Since Respondent 3 is threatening to redeploy the applicants in far off projects without preparing the seniority list, this application has been filed.

2. In the counter the stand of the Respondents(Department) is that consequent upon completion of works in Survey and Construction Organisation at Visakhapatnam, the surplus staffs are being redeployed in accordance with the policies laid down by the Chief Personnel Officer, S.E.Railway in Memorandum dated 11.6.1993. As such lien holders holding lien in the Open Line itself will have to be repatriated to their parent Divisions and various permanent staffs borne in the Construction Reserve Cadre and who have been granted permanent status have to move to other Construction Units/Projects under the entire S.E.Railway since the P.C.R. is a floating cadre. In case the construction works come to a close and casual labourers are still surplus, the project may not have any other alternative than to retrench such casual labourers strictly under the Provisions of I.D. Act. The applicants, according to Department, belong to three different categories and their terms and conditions of services are different. Such of the applicants belonging to P.C.R. cadre, which is a floating cadre will have to be transferred to other projects as per terms and conditions of their service and they cannot be permitted to claim retention in the Waltair Division. With regard to project casual labourers, their services are normally transferable, but they are to be absorbed after the screening and empanelment in the geographical area where the

construction project is situated depending on the regular vacancies on the basis of total number of days put in by them. It is the further case of the Department that circular letter No.64/87 dated 23.4.1987 under Annexure-1 is not the circular issued by the Railway Board, but issued by the Chief Personnel Officer of S.E.Zonal Railway and as such the instructions contained therein are not applicable to the applicants who are serving under the S.E.Railway.

No rejoinder has been filed by the applicants.

4. We have heard Shri G.A.R.Dora, learned counsel for the applicants and Shri D.N.Mishra, learned Standing Counsel appearing for the Respondents (Department). Also perused the records as well as the records of O.A. 605/93 and 609/944, judgments of which have been referred by the learned counsel for the applicants.

5. Since we feel this application can be disposed of on the point of jurisdiction, we are not inclined to enter into discussion on merit. The 23 applicants, as their address^s reveal in the Original Application are serving at Visakhapatnam. Out of the three respondents, Res.2 and 3 are Railway authorities stationed at Visakhapatnam. Res.1 has been described as Union of India represented through Chief Administrative Officer, Projects at Chandrasekhapur, Bhubaneswar. There is no averment in the pleadings that the applicants are aggrieved by any order passed or approved by Res.1, stationed at Bhubaneswar. As the pleadings reveal, they are aggrieved against the orders of Res.2 and 3, i.e. F.A. & C.A.O., stationed at Visakhapatnam and communication of Res.3, the Chief Project Manager,

at
stationed/Visakhapatnam.

Shri Dora, the learned counsel for the applicants, during hearing submitted that the applicants are in fact serving as Khalasis under Rayagada - Koraput Railway Project and this has been averred in Para-4(ix) of the application. We have carefully gone through this relevant para at Page 9 and 10 of the application. Nowhere it has been mentioned that the applicants were engaged in the Construction of work of Rayagada - Koraput Broad Gauge Line. All that this sub-para speaks that Visakhapatnam Division of Railway had undertaken the construction work of Rayagada - Koraput Broad Gauge Line.

It is thus clear that the cause of action for filing this application did not arise either wholly or partly within the territorial limits of the State of Orissa, over which this Cuttack Bench of the Central Administrative Tribunal has territorial jurisdiction as per Govt. notification dated 15.10.1991 issued in exercise of powers conferred by Sub-section 1 of Section 18 of A.T.Act, 1985.

Statutory Rule 6 of C.A.T.(Procedure) Rules, 1987, describing the place of filing application is as follows

6. Place of filing application - (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction -

- (i) the applicant is posted for the time being, or
- (ii) the cause of action, wholly or in part, has arisen :

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the order under Sec.25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule(1) persons who have ceased to be in service by reason of retirement, dismissal or

termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application".

As earlier stated, the applicants are serving at Visakhapatnam which is in the State of Andhra Pradesh and outside the territorial jurisdiction of this Bench. They being still in service, even if they are residents of Orissa, though in fact there is no such averment, cannot take advantage of Sub-rle ii of Rule-6. Cause of action, as already stated, had arisen at Visakhapatnam and not inside the State of Orissa.

Shri G.A.R.Dora, learned counsel for the applicants, however, placed reliance on the judgments of this Bench in O.A. No.605/93 and four others disposed of through common judgment on 17.8.1994 and O.A.609/94 disposed of on 8.12.1995 in support of his contention that though the applicants therein were stationed at Visakhapatnam, this Bench has disposed of their cases. We have carefully gone through those judgments. This issue of jurisdiction was neither raised nor discussed in those judgments. This apart, it cannot be said that causes of action in those cases did not at all arise within the territorial limits of the State of Orissa. In O.A.609/94, the applicant challenged his order of transfer to Bhubaneswar which is within the territorial jurisdiction of this Bench. Similarly in the other cases, transfer orders of the applicant to various places of State of Orissa were also under challenge. Hence the facts in those cases are distinguishable.

~~This application has been straightaway filed before this Bench.~~

T In view of the discussions made above, we have no

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hesitation to hold that this application is not maintainable before this Bench of the Central Administrative Tribunal and in this view of the matter, as already indicated, we do not propose to touch the case on merits.

In the result, the application is dismissed as barred by ~~limitation~~ ^{subsidiary}, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

10.2.2000

10.2.2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO