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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.636 OF 1994
Cuttack this the 19th day of Aug/2000

S. Som

P. Patra & Another ... 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.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

S. Som
(SOMNATH SOMY)
VICE-CHAIRMAN, 2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.636 OF 1994
Cuttack this the 17th day of August/2000
SJM.

CORAM:

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

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1. Sri Purusottam Patra, S/o. Naba Patra
Roster Clerk, S.E.Railway, Khurda Road,
At/PO: Jatni, Dist: Khurda
2. Dhiren Kumar Pratihari,
S/o. Late I.C.Pratihari, Roster Clerk
S.E.Railway, Khurda Road, At/PO:Jatni
Dist : Khurda

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Applicants

By the Advocates

Mr.C.M.K.Murty

-VERSUS-

1. Union of India represented by the
General Manager, S.E.Railway,
Garden Reach, Calcutta - 43
2. The Divisional Railway Manager,
S.E.Railway, Khurda Road,
At/PO: Jatni, Dist: Khurda
3. Divisional Personal Officer,
S.E.Railway, Khurda Road,
At/PO: Jatni, Dist: Khurda
4. The Senior Divisional Operational Manager
S.E.Railway, Khurda Road, At/PO: Jatni
Dist: Khurda
5. Sri M.Ramesh Kumar
Roster Clerk, Office of the
Divisional Railway Manager(P), S.E.Railway
Khurda Road, Dist: Khurda
6. Sri A.K.Mohanty, Roster Clerk
Office of the Divisional Railway Manager (P)
Khurda Road, At/PO: Jatni, Dist: Khurda

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Respondents

By the Advocates

M/s.B.Pal
O.N.Ghosh

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ORDER

MR .G .NARASIMHAM, MEMBER (JUDICIAL): In this Application under Section 19 of the Administrative Tribunals Act, 1985, two petitioners have prayed for quashing the orders at Annexures-6 and 7, promoting Respondent Nos. 5 and 6 as Control/Out-door Clerk and also for direction to respondents to regularise the services of the applicants as Roster Clerk taking into account the length of service rendered by them as such from 1992 along with all consequential service benefits.

2. The applicants' case is that they are working as Station Peons at Khurda Road Division from 1992 and while serving as such they have been deputed to act as Roster Clerk in higher grade and for working as such they have also got officiating pay/acting allowance from time to time. According to Office Order dated 11.10.1993 (Annexure-3) Station Peons are utilised for manning the posts of Roster Clerk because of heavy casualty by way of retirement, leave and promotion. It is further stated that as the applicants have been working as Roster Clerk for long time, the S.E.Railway Men's Union wrote letter to the departmental authorities forgiving the applicants adhoc promotion to the post of Roster Clerk. Applicants have also represented for the same, but without any result. Instead, the departmental authorities in the impugned order at Annexures-6 and 7 have given promotion to private Res. 5 and 6 to the post of Roster Clerk. In the context of the above facts the applicants have come up in this O.A. with the prayers referred to earlier.

J.W.M.

3. Private Res. 5 and 6 have been issued with notices but they did not appear nor file any counter.

4. The departmental respondents have filed their counter opposing the prayer of the applicants. It is not necessary to

refer to the averments made by the departmental respondents in their counter because these will be dealt at the time of considering the submissions made by the learned senior counsel appearing for the Railways. It is only necessary to note that the respondents have denied that the applicants have officiated as Roster Clerk for a considerable length of time. They have mentioned that because of casualty from time to time, applicants have been allowed to work as Roster Clerk for period not exceeding 2/3 days and for performing such duties they have also got acting/officiating allowance. We have considered the submissions made by the learned Sr. counsel for the respondents. The basis of claim of the applicants for being regularised/absorbed in the post of Roster Clerk is that according to them they have been working as Roster Clerk from 1992. The applicants themselves have mentioned in the Original Application that they have joined as Station Peons in 1992. Therefore, it cannot be held that from 1992 itself they have been working as Roster Clerk uninterruptedly and for long period. Respondents on the other hand have stated that the applicants have worked as Roster Clerk for 2/3 days. They have also mentioned in the counter that applicant No. 1 has worked for three broken periods for 15 days as Roster Clerk and applicant No. 2 has worked for 19 days in 8 broken periods. In other words their period of work as Roster Clerk naturally comes to 2/3 days on each occasion and it is clear that this has been done in order to man the day to day casualty. The post of Roster Clerk is to be filled up, as per the recruitment rules by direct recruitment to the tune of 66/23% and the balance 33/13% by way of promotion from Group D employees. For qualifying for promotion to the post of Roster Clerk a Group D staff has to clear the selection test through

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written examination and viva voce. A similar matter earlier came up before the Tribunal in T.A.20/87 and the Tribunal took the view that persons who have worked in the promotional post without clearing the selection test does not have any right to get regularised in the post. Moreover in the instant case the applicants have worked for brief period. They have also not cleared the selection test whereas Res.5 and 6 have been so promoted after they have cleared the selection test. In view of this prayer of the applicants to quash appointment of Res. 5 and 6 to the post of Roster Clerk is held to be without any merit and the same is rejected.

The prayer of the applicant for getting regularised in the post of Roster Clerk is also held to be without any merit and the same is rejected.

In the result, we hold that applicants have not been able to make out a case for any of the reliefs prayed for. The O.A. is, therefore, held to be without any merit and the same is rejected, but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

B.K.SAHOO//