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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application Nos. 723/94 & 3/95

Cuttack this the 11th day of December, 1995

IN O.A. 723/94

B.K. Mohapatra & Others

...

Applicants

Versus

Union of India & others

...

Respondents

IN O.A. 3/95

Rabindra Kumar Behera
and others

...

Applicants

Versus

Union of India & Others

...

Respondents

(FOR INSTRUCTIONS)

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


(D.P. HIREMATH)
VICE-CHAIRMAN


(P.V. VENKATKRISHNAN)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application Nos. 723/94 & 3/95

Cuttack this the 11th day of December, 1995

CORAM

THE HONOURABLE MR. JUSTICE D.P. HIREMATH, VICE-CHAIRMAN

AND

THE HONOURABLE MR. P.V. VENKATKRISHNAN, MEMBER (ADMINISTRATIVE)
(ERNAKULAM BENCH)

...

O.A. 723 of 1994

1. Basanta Kumar Mohapatra,
S/o. Gopinath Mohapatra
2. Bijoy Kumar Khuntia, Son of
Nisamani Khuntia
3. Bijaya Kumar Pradhan,
S/o. of Surendranath Pradhan
4. Susanta Kumar Mistry,
S/o. Satish Chandra Mistry
5. Bijaya Kumar Ojha,
S/o. Late Natabar Ojha
6. Haralal Hawaldar
S/o. Late Harendranath Hawaldar
7. Sachinda Nanda Jena
S/o. Hadibandhu Jena
8. Kailash Kumar Pradhan
S/o. Udayanath Pradhan
9. Sudhansu Mohan Kanungo
S/o. Madhusudan Kanungo
10. R.K. Mohanty
S/o. Bhikari Charan Mohanty
11. Madhusudan Subudhi
S/o. Late Dhuli Subudhi
12. Bijayananda Sahoo
S/o. Late Bhramabar Sahoo

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13. Suryanarayan Panigrahi,
S/o.Dinabandhu Panigrahi
14. K.Khan son of Late Ahmed Khan
15. S.K.Hota, Son of Sisir Kumar Hota
16. Harekrishna Behera, Son of Alekha Behera
17. Ramachandra Behera son of Late Suba Prasad Behera
18. Jagannath Pattnaik son of Late Purna Chandra Pattnaik
19. G.N.Mishra son of late Rama Chandra Mishra
20. Basanta Kumar Das, Son of Gokakha Ch.Das
21. M.L.Narayan Son of M.H.K.Reddy
22. A.K.Sahoo son of Gourahari Sahoo
23. Mohan Dandasena son of B.Dandasena
24. Susanta Kumar Sahoo son of Daitari Sahoo
25. Chakradhara Gouda son of late Dhanu
26. Rajat Kumar Mishra, son of Parsuram Mishra
27. Gajendra Kumar Behera, son of Kalandi Chandra Behera
28. Sailendra Natj Kar, Son of Hiralal Kar
29. Benudhara Kumura, son of Ramachandra Kumura
30. Rabindra Nath Mallik son of Upendranath Mallik
31. Babaji son of Jogi
32. Brajabandhu Nayak son of late Jai Nayak
33. Prafulla Chandra Mohapatra son of Jaladhara Mohapatra
34. Maheswar Deo son of Late Chaturbhuja Deo
35. Shankarshan Barik son of Maguni Barik
36. M.Guru son of late Purusottam Guru
37. Ghanashyam Das son of late Bhima Das
38. Subash Ch.Mohapatra son of Rama Chandra Mohapatra
39. Babaji Charan Behera son of late Sanatan Behera

All are staff of Motor Transport Carriage
Repair, South Eastern Railway Workshop,
Mancheswar, Bhubaneswar, District:Khurda

By the Advocate: M/s.D.P.Dhalasamant
M.P.Mohapatra

Petitioners

Versus

1. Union of India represented through
the General Manager, South Eastern
Railway, Garden Reach, Calcutta-48 (W.B.)

2. The Chief Workshop Manager,
Carriage Repair Workshop,
South Eastern Railway, Mancheswar,
Bhubaneswar, District:Khurda
3. The Personnel Officer, Carriage
Repair Workshop, South Eastern
Railway, At/PO:Mancheswar,
Bhubaneswar Circle,
District:Khurda

... Respondents

By the Advocate: M/s.B.Pal
O.N.Ghosh

O.A. 3/95

1. Rabindra Behera, E.C.F. W.M.Gr.II T.No.25360
S/o. Khageswar Behura
2. Ram Prasad Dutta, E.F.F. WM Gr.II T.No.15248
Son of M.P.D.Dutta
3. Prafulla Kumar Behera -do- T.No.15316
S/o.Mochiram Behera
4. Sarada Prasanna Nayak, Carpenter T.No.15305
S/o. Bhagyadhar Nayak
5. Sailendra Kumar Chatterjee, E/Fitter Gr.III T.No.15315
S/o.Ajit Kumar Chatterjee
6. Susanta Sekhar Samal, E.C.F.Wm.Gr.I T.No.15122
S/o.Tarkant Samal
7. Dhanraj Sharma, Carp. Gr.III T.No.15306
S/o.Narayan Sethy
8. Gokulananda Das, E.C.F.WM. GR.I T.No.15134
S/o.Krunachand Das
9. Nimai Charan Sethi, E.C.F.WM Gr.II T.No.15126
S/o.Baisrab Sethi
10. Mahendra Kumar Ojha, Welder gr.I T.No.15129
S/o.Goberdhan Ojha
11. Bhagirath Sahoo WM Fitter Gr.I T.No.15138
S/o.Damodar Sahoo
12. Purna Chandra Das, Khalasi T.No.15602
S/o.Dakhal Das
13. Bibhuti Bhusan Moharana, ECF WE Gr.I T.No.15124
S/o.Dwarikanath Maharana
14. Sukant Sahoo, K/Helper T.No.15600
S/o.Ksdhinath Sahoo
15. Sukadev Barkk/S/o. ECF WM Gr.III T.No.15220
Indramani Barik

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16. Radha Mohan Sethy, Cell Fitter Gr.II T.No.15126
S/o.Laxman Sethy
 17. S.V.R.Babu, E.C.F. WM Gr.II T.No.15254
Son of S.S.Rao
 18. Sridhar Sahoo -do- T.No.15251
S/o.Satyabadi Sahoo
 19. Harihar Mandal, ECF WM Gr.II T.No.15255
S/o.Gouranga Mandal
 20. Gopal Ojha Carp.Gr.II T.No.15214
S/o.Krushna Chandra Ojha
 21. Gourachand Dutta, ECF WM Gr.II T.No.15247
Son of P.C.DUTTA
 22. Prakash Mishra, ECF WM Gr.II T.No.15260
Son of Basudev Mishra
 23. Akhaya Kumar Nanda, B.T.M. T.No.15642
Son of Kapileswar Nanda
 24. K.Rabindranath Pattnaik, Motor/Mech Gr.III T.No.15387
S/o.K.Jaga Rao Pattnaik
 25. Ashok Kumar pattnaik CFCFW Gr.II T.No.15215
Son of Harihar Pattnaik
 26. Upendra Nath Moharana W/M. Gr.II T.No.15217
Son of Narayan Moharana
 27. Dhiran Kumar Das ECFWM Gr.II T.No.15245
Son of Jhari Das
 28. Fakir Mohan Marind E/Fitter Gr.III T.No.15344
Son of Das Math Marandi
 29. Damadar Das W/Man Gr.III T.No.15378
Son of Gopinath Das
 30. Kamal Lochan Parida E/Fitter Gr.III T.No.15374
Son of Manmath Parida
 31. Jaganath Patri, ECF WM Gr.I T.No.15128
Son of Shyamsundar Patri
 32. Sitanath Swain K/H T.No.15616
Son of Kshetra Mohan Swain
 33. Bijay Kumar Pradhan, Painter Gr.I T.No.15111
Son of K.Pradhan
 34. Sachadeva Lenka, Wireman Gr.I T.No.15231
S/o. of Bishun Charan Lenka
 35. Bipra Charan Rout, ECF WM Gr.I T.No.15141
S/o.Nidhiram Rout
 36. Hrushikesh Das, ECF WM Gr.I T.No.15132
S/o.Khetramohan Das
 37. D.UB Rao, HSF Gr.I, S/o.D.S.Rao T.No.15117
 38. Nrusingh Ch.Mishra, E/Fitter Gr.III T.No.15315
S/o. Alekha Mishra

39. Ananta Ch.Behera, Wireman Gr.III T.No.15315
S/o.B.Behera
40. Dhoba Sahu, ECF WM Gr.I T.No.15140
Son of Rama Sahu
41. Kamal Lochan Jena, ECF WM Gr.I T.No.15123
Son of Daitari Jena
42. Raj Kishore Patra, Motor Mech.Gr.III T.No.16311
Son of Satish Kr.Patra
43. Benudhar Pani, K/Helper T.No.15629
Son of Narayan Pani
44. Biswanath Pani K/Helper T.No.15642
Son of Bansidhar Pani
45. Diba Prasad Sahoo, K/Helper T.No.15629
Son of Gundichi Sahoo
46. Nishakar Kantha, ECF WM Gr.I T.No.15110
47. Sudhansu Bhusan Bhanjadeo, E/Fitter T.No.15211
S/o.G.R.Bhanjadeo Gr.II
48. G.C.Singh, KSI T.No.15717
Son of Raghu Singh
49. J.K.Ray, ECF WM Gr.I T.No.1136
Son of Jadumani Ray
50. Tapan Kumar Debta ECF WM Gr.I T.No.15124
Son of Sridhar Debta
51. Bhabanishankar Swain, ECF WM Gr.I T.No.15139
Son of M.Swain
52. Kailash Ch.Swain K/Helper T.No.15622
Son of B.N.Swain
53. Pramoda Kr.Panda, K/Helper T.No.15618
Son of M.Panda
54. Hadibandhu Jena K/Helper T.No.15648
Son of Akuli Jena
55. Bimbadhar Mohanty W/Man III T.No.15376
Son of G.N.Mohanty
56. B.V.S.Rao, Turner Gr.III T.No.16301
Son of B.S.N.Mohanty
57. V.R.S.Patra ECF WM Gr.II T.No.15210
Son of S.N.Patra
58. Avimanyu Grahacharya CMC WMGr.II T.No.15200
Son of Babaji Ch.Nayak
59. Bhikari Sethi Wireman Gr.III T.No.15310
Son of Musi Sethi
60. Subash Ch.Behera K/Helper T.No.15630
Son of Jugal Behera
61. Dinabandhu Sahoo K/Helper T.No.15638
Son of Dhuleswar Sahoo
62. Nabaghana Nayak K/H. T.No.15630
Son of Balaram Nayak

63. B.Vaskar Rao, TLF Gr.II
Son of B. Appa Rao T.No.15207
64. Sudhir Ku.Barik E/F.Gr.II
Son of Shyamaghana Barik T.No.15363
65. Narendra Behera E/G.Gr.II
Son of Gangadhara Behera T.No.15252
66. Sudam Charan Behera TLF Gr.III
Son of Bibakar Behera T.No.15302
67. Rajkishore Sahoo K/H
Son of Krushna Ch.Sahoo T.No.15601
68. Bijoya Ku.Otta ECF WM Gr.I
Son of Dhurba Ch.Otta T.No.15142
69. Hara Krushna Naik ECF WM Gr.I
Son of Jatia Naik T.No.15133
70. Prasanta Ku.Sahoo K/H.
Son of Dhulashree Sahoo T.No.15604
71. N.Sutar Dign.B/Smilter Gr, III
Son of Kelu Charan Sutar T.No.15384
72. Mritish Dey, Degn.Cell.cum Wireman
Son of Laxmikanta Dey T.No.15213
73. Bala Krushna Manahar ECF WM Gr.I
Son of Amada Kandhar T.No.15137
74. Satyabadi Satapathy, TLF Gr.I
Son of Kulamani Satapathy T.No.15107
75. Lal Mohan Naik ECF WM Gr.I
Son of Sambhu Nath Naik T.No.15101
76. Bibhuti Bhusan Das, ECF WM Gr.I T.No.15239
77. Raghunath Moharana TLF Gr.I
S/o. Mangulu Maharana T.No.15105
78. Bidyadhar Das, ECF WM Gr.III
Son of Sanatana Das T.No.15319
79. R.C.Mandi E/Fitter Gr.III
Son of Shyam Chandra Mandi T.No.15345
80. Jogendranath Dandpat Disn.ECF/WM Gr.I T.No.15103
Son of Jaydev Dandapat
81. Narendra Kumar Pattnaik Desgn.ECF WM Gr.I
T.No.15127
82. D.V.Rao, Design. ECF WM Gr.I
S/o. of D.Paidithry T.No.15131
83. Rabindra Nath Naik, Desig.Wireman Gr.II
S/o.Krushna Ch.Naik T.No.15230

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84. Kangali Ch. Sethi, Desig. ECF WM Gr. II T.No. 15257
S/o. Nakhi Sethi
85. D. Syamasundar Rao, Welder Gr. II/Carp. Gr. I
T.No. 15223/15106
86. S. C. Ghosh Desig. EL/Fitter
Son of Bholanath Ghosh T.No. 15365
87. Gokak Charan Mallick, Blacksmith, Gr. III T.No. 15383
Son of N. Mallick
88. A. K. Behera, Design., Welder III T.No. 15377
Son of Duryodhan Behera
89. Prasanta Kumar Sahoo

All are at Mancheswar Workshop of S.E. Railway,
At/PO: Mancheswar, District: Khurda

... Applicants

By the Advocate: Mr. Akhaya Kumar Mishra

Versus

1. Union of India
represented through
Chief General Manager,
Garden Reach,
Calcutta-43
2. Chief Works Manager,
South Eastern Railway
Carriage Repair Workshop
Mancheswar,
District : Khurda
3. Workshop Electrical Engineer,
Carriage Repair Workshop,
Mancheswar,
District : Khurda
4. Workshop Personnel Officer,
Carriage Repair Workshop,
Mancheswar,
District : Khurda

... Respondents

By the Advocate: M/s. B. Pal
O. N. Ghosh

...

O R D E R

MR.P.V.VENKATKRISHNAN, MEMBER (ADMN): The basic issues involved in these two applications are the same and therefore, they are being disposed of by this common order.

2. Applicants in Original Application No.723/94, ¹we staff of the ¹Moto¹Transport Workshop in the Mancheswar Division of the South Eastern Railway. Applicants in Original Application No. 3/95 are working under ¹the Shop Superintendent (Electrical Train Lighting, Shop) Carriage Repair Workshop at Mancheswar. Their grievance is that though they had worked on 1.1.1994, pay for that day ¹has¹ been denied to them. They have prayed that respondents may be directed to release the one day salary for 1.1.1994.

3. According to respondents, the applicants did not work on 1.1.1994 in view of a strike and therefore, adopting the principle of 'No Work No Pay,' pay for 1.1.1994 has been denied to them. Respondents rely on R/9 (in O.A.723/94) which shows that on 1.1.1994, there has been no out turn of work for the Carriage Repair Workshop. They have stated in the reply in O.A. 723/94 that out of 15¹22 employees, wages have been denied for 1339 employees and 183 employees have been paid wages for 1.1.1994, since they had done duties or had remained on leave. The principle of No Work No Pay ¹has¹ been adopted in respect of employees who had absented themselves from duties

after punching their G.A. Cards and signed the attendance register.

4. Applicants rely on a certificate dated 29.8.1994 that the staff had worked according to their daily duties booking register and have done their assigned job on 1.1.1994; on a letter dated 8.1.1994, addressed to the CWM/MCS from Deputy SS/MT/MCS that the staff MT shop have done their normal duties on 1.1.1994; a fit memo (R/11) in O.A. 3/95 that certificate coaches are fit to run on 3.1.1994; Annexure-A/2 dated 1.1.1994, that certificate coaches are made ready from the electrical side; Annexure-1 in O.A. 3/95 which is a letter to CWM/MCS from Shop Superintendent T.L. Shop dated 1.1.1994 that all the staff of T.L. shop who had reported to duty were working on 31.12.1993 and 1.1.1994.

5. The main contention of the respondents is that out turn for 1.1.1994 has been nil. Even according to the showing of the respondents themselves, out of 1522 workers 1339 have not worked. Even if the applicants in these two applications ^{numbering} ~~which is~~ 128 had worked, the number who did not work would still far outnumber the persons who had worked and the out turn would not have substantially altered. In our view the out-turn being nil on 1.1.1994 would not by itself prove that the applicants in these two applications did not do their work. As against this we find a large number of contemporaneous certificates

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which we have mentioned above, indicating that the applicants in these two applications performed their work on 1.1.1994.

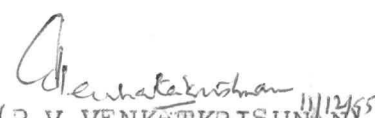
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6. Considering the totality of the pleadings before us, we consider that the applicants are entitled to ^{the} relief prayed for. We accordingly direct the respondents to pay the applicants the salary due to them for 1.1.1994. Payment of amount ~~that~~ withheld shall be done within two months from the date of receipt of this order.

7. In the result the application^{are} is allowed.

No costs.


(D.P. HIREMATH) 11/11/95
VICE-CHAIRMAN


(P.V. VENKATKRISHNAN) 11/12/95
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//