CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

O.A.NOS.140,141, 176, 204,216, 283 & 516 OF 1995
Cuttack, this the 15th day of October, 1998

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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In OA 140/95
Kalandi Kishori Routray,
s/o Janak Kumar Rout,
Resident at Type-3 Quarter No.1,
Government of India Text Book Press Colony,
P.O-Mancheswar, Railway Colony,
Dist.Khurda, Pin-751 017.

In OA No.141/95
Anuja Kumar Pradhan,
s/o Adikanda Pradhan,
Resident at Type-I, Quarter No.33,
Government of India Text Book Press Colony,
P.O-Mancheswar, Railway Colony,
Dist.Khurda,Pin-751 017.

In OA No.176/95
Goutam Charan Mallick,
son of Rangadhar Mallick,
At-Chakaisuani, Plot No.160,
P.O-Rasulgarh,
Dist.Khurda

In OA No.204/95
Dillip Kumar Pattnaik,
aged abaout 26 years, son of
Harekrushna Das of Delang,
P.S-Delang, Dist.Puri.

In OA No.216 of 1995
Pramod Kumar Bhanga Samant,
aged about 25 years,
son of Braja Mohan Bhanja
Samant, resident of Haldiagarh,
P.O-Haldiagarh,
Dist.Khurda.

In OA No. 283/95
Pabananda Sethy, son of
Chakradhar Sethy, resident of
Village-Ghodabara,P.O-Subarnapur,
District-Cuttack, at present
C/o Chandramani Sethy, Sr.Asst.
(Pension Section Forms),Orissa Govt.Press, Madhupatna,
Cuttack-10.

In OA No.516 of 1995

Jagabandhu Satapathy,
aged about 29 years,
son of Jatindranath Satapathy,
of Nuagarh, P.O-Telengapentha,
P.S-Sadar, District-Cuttack.
....Applicants

Advocates for applicants - M/s Dr.M.R.Panda,
D.K.Pani,
M.K.Nayak
(OA Nos.140,141 & 176/95)
Mr.B.Sahoo
(OA No.204/95)
M/s B.Patnaik,
M.K.Badu,P.K.Panda
A.K.Samantray
(OA No.216/95)
M/s A.K.Patnaik,
M.R.Mohanty &
D.Mangaraj
(OA No.283/95)
Miss.D.R.Nanda &
S.B.Das
(OA No.516/95)

Vrs.

In all the OAs

1. Union of India, represented through its Director, Directorate of Printing "B" Wing, Nirman Bhawan, New Delhi-110 011.

2. Deputy Director,Directorate of Printing, "B" Wings, Nirman Bhawan, New Delhi-110 011.

3. Manager, Government of India Text Book Press, At-Government of India Text Book Press, P.O-Mancheswar Railway Colony, Bhubaneswar-17, Dist. Khurda, Pin-751 017 .... Respondents

Advocate for respondents - Mr.U.B.Mohapatra, Addl.C.G.S.C.

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ORDER

SOMNATH SOM, VICE-CHAIRMAN

These seven cases have been heard separately, but one order is being passed in these seven cases. This is because the petitioners are similarly situated. In OA Nos.140,141 and 176 of 1995 they have filed identical petitions seeking the same relief on the same grounds. The respondents have also taken identical stands in separate counters filed by them in these cases. In OA Nos.204/95, 216/95, 283/95 and 516/95 also the petitioners are similarly situated and they have asked for the same relief as the petitioners in the three O.As. mentioned earlier, OA Nos.140, 141 and 176 of 1995. The respondents have also taken identical stands in the separate counters filed bythem.

2. The case of the applicants is that in response to the notice issued by the Manager, Government of India Text Book Press in different years in 1986, 1987, 1988 and 1992, the petitioners applied for two years apprenticeship training. In one case the training was for three years. They were selected for such apprenticeship training through a process of selection and successfully undertook the training on the conclusion of which they obtained National Apprenticeship Certificates from National Council for Vocational Training in different years. The applicant in OA No.140/96 underwent two years training in Machine Minder (Litho Offset) from 1988 to 1990 and obtained the certificate in 1990. Applicant in OA No. 141 of 1995 underwent two years apprenticeship training in Book Binder from 1988 to 1990 and obtained a certificate in 1990. Applicant in OA No.176/95 underwent three years apprenticeship training in the trade Book Binder from 1986 to 1989 and obtained the certificate in 1989. The applicant

in OA No.204/95 underwent two years apprenticeship training in the trade Plate Maker from 1992 to 1994 and like others passed the test and obtained the certificate. The three applicants in OA No.216, 283 and 516 of 1995 successfully underwent apprenticeship training in the trade Book Binder for two years from 1987 to 1989 and obtained certificates.The case of the applicants is that it is the practice in Government of India Text Book Press to fill up all posts by way of promotion except the post of Labourer and if any vacancy arises in any higher post, the same is generally filled up by promotion from lower level and vacancies in the posts of Labourer are filled up through direct recruitment. After completion of their apprenticeship training and obtaining certificates, the petitioners applied several times for getting appointment in the Text Book Press, but without any result. They applied for the post of Labourer after completion of their apprenticeship training, but such requests were not considered. The applicants came to know that eight posts of permanent Labourer are lying vacant and Employment Exchange has been requested to sponsor names of eligible candidates. The names of the applicants were not forwarded bythe Employment Exchange. The petitioners filed applications before the respondents for being considered for the post of Labourer, but they apprehend that the same will not be considered.The applicants' case is that they are highly qualified persons and because they have not been appointed to the posts in the trades in which they have been trained, they have applied for the post of Labourer, but for that post also their candidature is not being considered.That is how the applicants have prayed for a direction to the respondents to allow the applicants to participate in the recruitment test and to give any other relief as per law.

3. The above is broadly the case of the applicants in all these petitions. The only difference is that whereas the applicants in OA Nos.140, 141, 176 and 283 of 1995 have stated that the departmental authorities are going to fill up eight permanent posts of Labourer for which they have made applications which are not being considered, the applicants in OA Nos. 204, 216 and 516 of 1995 have stated that the departmental authorities are going to fill up 10 posts of permanent Labourer lying vacant. These applicants have further stated that out of these 10 posts the departmental authorities have asked the Employment Exchange to send names for filling up of eight posts and two unreserved posts of Labourer are lying vacant and the departmental authorities are likely to fill up those two posts out of the panel prepared in the year 1992 in order to deprive the applicants for consideration against those two posts. In the context of the above facts, all these applicants have come up with the prayers referred to earlier.

4. The respondents in their counter have taken the following stands. They have stated that according to Section 22 of Apprentices Act, 1961 and paragraph 7 of the contract entered into with apprenticeship trainees, the employer is not obliged to offer any employment to the trade apprentice on completion of period of his apprenticeship training in his establishment nor is it obligatory on the part of the trade apprentice to accept an employment under the employer. As such the respondents have denied any obligation to give appointment to the applicants in the trades in which they have been trained or in any other posts. The second stand of the respondents is that these applicants have been trained in different trades referred to by me earlier and they can be considered for

direct appointment in posts relating to their trades when such posts fall vacant. They have also stated that such posts in the respective trades are also open to be filled up by Labourers working in the Text Book Press with nine years of experience subject to their qualifying in the trade test. The respondents have thus indicated that they are not obliged to consider the applicants for the post of Labourer. The third point taken by the respondents is that the post of Labourer which is Group-D Unskilled post is filled up in accordance with recruitmnt rules and as such the case of the applicants cannot be considered for the post of Labourer. The respondents have further stated that filling up of the post of Labourer is under a ban and when the ban is lifted the posts will be filled up. According to the Recruitment Rules, the respondents are obglied to consider only the names forwarded by the Employment Exchange and hence the applicants cannot be considered for the post of Labourer. On the question of submission of representation by the applicants, the respondents in their counters filed in these cases have admitted receipt of such representations in some cases giving the date of representation and in some cases denied receipt of representation from some of them. On the above grounds, the respondents have opposed the prayer of the applicants.

5. From the above recital of facts, it would be clear that the admitted position is that in response to the notice issued by Manager, Government of India Text Book Press, these petitioners applied for undergoing apprenticeship training in different trades in different years. They successfully completed the training and obtained National Apprenticeship Certificates from National Council for Vocational Training after successfully clearing the tests at the end of the training period. It is also the

admitted position between the parties that these applicants have not been provided with any job in the Text Book Press in posts relatable to their trades in which they have been trained. It is also the admitted position that for filling up of eight permanent posts of Labourer, the departmental authorities have called for names from Employment Exchange. The names of the applicants have not been forwarded by the Employment Exchange. They have made applications directly to the departmental authorities for the post of Labourer, but their cases are not going to be considered.

6. In the context of the above admitted factual position, the prayers of the applicants will have to be considered.

7. I have heard Dr.M.R.Panda, the learned counsel for the petitioners in OA Nos.140,141 and 176 of 1995, Shri B.Sahu, the learned counsel for petitioner in OA No.204/95, Shri B.Patnaik, the learned counsel for the petitioner in OA No.216/95, Shri M.R.Mohanty, the learned counsel for petitioner in OA No.283 of 1995, and Miss. D.R.Nanda, the learned counsel for the petitioner in OA No.516/95 and Shri U.B.Mohapatra, the learned Additional Standing Counsel appearing for the respondents in all these cases, and have also perused the records.

8. Section 22 of the Apprentices Act,1961 providesthat it shall not be obligatory on the part of the employer to offer any employment to an apprentice who has completed the period of his apprenticeship training in his establishment nor shall it be obligatory on the part of the apprentice to accept an employment under the employer. Sub-section (2) of Section 22 lays down that nothwithstanding the provision quoted earlier, where there is a condition in a contract of apprenticeship that the

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apprentice shall, after the successful completion of the apprenticeship training, serve the employer, the employer, on such completion, shall be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract. The proviso to sub-section (2) of Section 22 further lays down that where such period or remuneration is not, in the opinion of the Apprenticeship Advisor, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period or remuneration revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer. In the instant case, Clause 7 of the contract executed with these applicants as apprenticeship trainees specifically provides that it shall not be obligatory on the part of the employer to offer any employment to the trade apprentice on completion of period of his apprenticeship training in his establishment nor shall it be obligatory on the part of the trade apprentice to accept an employment under the employer. The respondents have enclosed copy of the contract entered into by the applicants in some of these cases. It has been argued by the learned Additional Standing Counsel appearing for the respondents that in view of the specific provision of sub-section (1) of Section 22 of the Apprentices Act, 1961 and the provision in the contract, the respondents are not obliged to make any offer of employment to these applicants.The learned counsel for the applicants in reply has relied on the decision of the Hon'ble Supreme Court in the case of U.P.State Road Transport Corporation and another v. U.P.Parivahan Nigam Shishuks Berozgar Sangh and others, AIR 1995 SC 1115. The facts of this important decision and the law laid down by the Hon'ble Supreme Court therein will have to be referred

to for considering the rival submissions of the learned counsels in these cases. In **U.P.State Road Transport Corporation's case (supra)** the Corporation came up to the Hon'ble Supreme Court against some direction given by Hon'ble Allahabad High Court to employ those who had received training in the Workshop of the Corporation. After considering the fact that considerable resources have been spent in training the respondents as apprentices by the Corporation and the fact that they are qualified and trained persons, the Hon'ble Supreme Court laid down the law in the following words:

> "12. In the background of what has been noted above, we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training:-
>
> (1) Other things being equal, a trained apprentice should be given preference over direct recruits.
>
> (2) For this, a trainee would not be required to get his name sponsored by any employment exchange.The decision of this Court in Union of India v. Hargopal, AIR 1987 SC 1227, would permit this.
>
> (3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.
>
> (4) The concerned training institute would maintain a list of the persons trained year wise.The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior."

In view of the law as laid down by the Hon'ble Supreme Court in paragraph 12 of the judgment, quoted by me above, the respondents are obliged to act strictly in

accordance with the law as laid down by the Hon'ble Supreme Court, while considering the cases of the applicants for the posts relatable to the trades in which they have been trained. The respondents have taken the stand in all the counters filed by them in these cases that in pursuance of the above judgment of the Hon'ble Supreme Court, the Government have not issued any direction or order and as such, they are unable to act in accordance with the direction. It is obvious that the above stand is without any merit. Once the law has been laid down by the Hon'ble Apex Court, it is incumbent on the part of the respondents to follow the same. In view of this, I have given the direction to the respondents as indicated earlier.

and it is so ordered.

9. The present controversy, however, is not for the posts for which the applicants have been trained. They have directly applied to the respondents for the post of Labourer and the respondents have stated in their counter that as their names have not been forwarded by the Employment Exchange, they cannot be considered. The second stand taken by the respondents is that the applicants can be considered only for the technical posts for which they have been trained and not for the post of Labourers which are to be filled up in accordance with the Recruitment Rules. On this point also, it would be profitable to refer to the decision of the Hon'ble Supreme Court in **U.P.State Road Transport Corporation's case (supra)**. In that case, the Hon'ble Allahabad High Court had given direction to the Corporation to employ those who had received training in the Workshop of the Corporation. In course of hearing, their Lordships of the Hon'ble Supreme Court noted that an affidavit has been filed in one of the cases on the direction of the Court regarding vacancies in the posts of

Conductors and Clerks. In view of these vacancies, the Hon'ble Supreme Court gave the following direction with regard to the trained apprentices in respect of those posts in paragraph 13 of their judgment:

> ".....If such posts be still vacant, we direct the Corporation to act in accordance with what has been stated above regarding the entitlement of the trainees. We make it clear that while considering the case of the trainees for giving employment in suitable posts, what has been laid down in the Service Regulations of the Corporation shall be followed, except that the trainees would not be required to appear in any written examination, if any provided by the Regulations. It is apparent that before considering the cases of the trainees, the requirement of their names being sponsored by the employment exchange would not be insisted upon. In so far as the age requirement is concerned, the same shall be relaxed as indicated above."

From the above direction of the Tribunal, it is clear that the apprentices should be considered for being given employment in other suitable posts. But while considering the cases of the successful apprenticeship trainees for such posts, the provisions laid down in the Service Regulations should be followed except that the trainees should not be required to appear in any written examination and the requirement of their names being sponsored by the employment exchange would not be insisted upon and relaxation should also be given in terms of the direction given in paragraph 12 of the judgment of the Hon'ble Supreme Court quoted by me earlier. The relevant Service Regulation for the post of Labourer is Government of India Presses (Group C and Group D Industrial posts) Recruitment Rules, 1993, a copy of which has been filed in OA

No.140/95. In the Schedule to this Rule, against serial no.12, post of Labourer has been mentioned. The age requirement for the post of Labourer is 18 to 25 years. It is also mentioned that upper age limit is also relaxable for departmental candidates upto 35 years for appointment by direct recruitment and the educational qualification is Middle pass or equivalent. All the applicants here have the necessary educational qualification. As regards age relaxation, this may be given strictly in accordance with the direction of the Hon'ble Supreme Court in paragraphs 12 and 13 of their judgment quoted by me above. As regards the requirement of getting their names sponsored by the Employment Exchange, it has been laid down by the Hon'ble Supreme Court in **U.P.State Road Transport Corporation's case(supra)** that even for the post of Conductor and Clerk , their names need not be forwarded through the Employment Exchange and they would not be required to sit for a written examination. In view of this, it is not necessary for me to consider the submission of the learned counsel for the petitioners that reference to Employment Exchange for filling up of the posts of Labourers was unnecessary because the applicants' cases are required to be considered in terms of the direction of the Hon'ble Supreme Court even if their names have not been forwarded by the Employment Exchange. In view of the above, we direct the respondents to consider the applicants for the post of Labourers applying the law as laid down by the Hon'ble Supreme Court in the above case by giving them age relaxation as also relaxation of the requirement of getting their names sponsored by the Employment Exchange and for sitting at any written examination which may be conducted.

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10. In the result, therefore, the Original Applications are allowed in terms of the observation and direction contained in paragraphs 8 and 9 of this order, but, under the circumstances, without any order as to costs.

Sd/- Somnath Som
Vice-Chairman

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Section Officer,
Central Administrative Tribunal.
Cuttack Bench, Cuttack.