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OA-288/95

(A)

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Serial No. of Order	Date of Order	Order with Signature	Office note as to action (if any) taken on order
		<p><u>ORDER DATED 11-4-2001.</u></p> <p>In this case, Shri D.P. Dhalsamant, learned counsel for the applicant has reported on 16.3.2001 that the clients have taken away the file and he has no instructions. In view of this adjournment was given to the applicant to make alternative arrangements and the matter was posted to 29.3.2001. On which date, also there was no representation from the side of the applicant and the matter has been posted today. Today also applicants are absent. There is no representation from their side. There is also no request for adjournment. As this is a 1995 matter where pleadings have been completed long ago, it is not possible to drag on the matter indefinitely. We have, therefore, heard Mr. D.N. Mishra, learned Standing Counsel appearing for the Respondents and have also perused the records.</p> <p>In this Original Application 14 applicants have prayed for a direction to the Respondents for allowing them to give their final option for their retention or return to their parent department where they hold lien and release the applicants to their parent divisions.</p>	<p>For admission of hearing. Respondents has no appearance A.D. from R-2 not returned. Counter also not filed. (213)</p> <p><u>File</u> 6/7 Bench</p> <p>For admission of hearing Respondents has no appearance A.D. from R-2 not returned. Counter not filed. (213)</p> <p><u>File</u> 10/7 Bench Mr. L. Mohapatra has appeared for opp. parties. Counter not filed. For admission of hearing.</p>

2/10/01

File 17/7 Bench

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(7)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

For hearing.
~~Patra~~
15/3 Bench

For hearing.
~~Patra~~
28/3 Bench

For hearing.
~~Patra~~
10/4 Bench

S. J. Das

SE Railway, Sambalpur, Respondent No. 3.

Applicants have stated that in the circular at Annexure-1 it had been stipulated that for the present, the lien of the optees will be maintained in their parent cadre. At the time of finalisation of the cadre for the newly formed Sambalpur Division, the Staff working in the division will be asked to exercise their final option for their retention on Sambalpur Division or return to their Parent cadre where they hold lien. Applicants have further stated that Sambalpur Division has been functioning independently from 15.8.1993 and even after passage of long years, final option has not been called from the applicants. They have filed representations for being allowed to give their final option but the Respondents have ordered in their letter dated 29.11.1994 at Annexure-5 that as fixation of cadre and seniority at Sambalpur has not been examined, their request for giving final option can not be considered at present till the construction of Sambalpur-Talcher line is completed and handed over to Sambalpur Division. Applicants have stated that as they are lien holders in their parent Department and as no final option is being asked for from them their cases are hanging in between and in the context of the above facts, they have come up in this Original Application with the prayers referred to earlier.

Respondents in their counter filed

in August, 1995 have taken the stand that as the Sambalpur-Talcher Line has not yet been completed and handed over to Sambalpur Division and as separate cadre has not been formed for Sambalpur Division and seniority has not been finalised the optees can not be allowed to give final options.

At the time of hearing learned Standing Counsel for the Respondent NO. 3 was not able to indicate whether by now a separate cadre has been formed and if so, ^{whether} the applicants have been permitted to give their final option. Be that as it may, as the applicants admittedly have come ^{by} ~~in~~ exercising their option and they hold their lien against certain posts in their parent divisions, it is not open for the Departmental Respondents in this case to keep them in Sambalpur as per their option indefinitely. The question that a separate cadre has not been formed for Sambalpur Division is not very material for ~~this~~ purpose because some of the optees may opt to go back to the Divisions where they are holding Lien and the Departmental authorities can not prevent the lien holders to get back to the posts to which their ~~lien~~ is there. Some of them ^{may} ~~have~~ opted for final absorption in the Sambalpur Division. In which case, they can be retained and the question of their seniority etc. can be fixed at the time of formation of a separate cadre, in case the same has not yet been framed.

In consideration of the above, we dispose of this O.A. with a direction to the

J. J. M

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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

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of the order
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Respondent No.3 to allow these applicants to exercise their final option for getting absorbed in the Sambalpur Division or for going back to their parent divisions where they hold lien. This should be done within a period of 90 (ninety) days from the date of receipt of a copy of this order, if the same has not been done already. We also make it clear that while allowing these applicants to give their final options, similar facilities should be made available to other optees working in Sambalpur Division who are similarly situated as the applicants.

In view of the above directions and observations, the Original Application is disposed of. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.