

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.524 OF 1995.

Cuttack, this the 28th day of August, 2001.

KARUNAKAR MANDAL & ORS. PETITIONERS.

VRS.

UNION OF INDIA & OTHERS. OPP. PARTIES.

FOR INSTRUCTIONS

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

S. Somnath Som
(SOMNATH SOM)
VICE - CHAIRMAN
28.8.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 524 OF 1995.
CUTTACK, this the 28th day of August, 2001.

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR.G.NARASIMHAM, MEMBER (JUDICIAL).

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1. Karunakar Mandal, Aged about 42 years, son of Sri Chandramani Mandal, at present working as Draftsman, Grade-II in the Establishment of Survey of India, No.10, D.O.(SEC) Survey Bhavan, PORR Laboratory, Bhubaneswar, Dist: Khurda.
2. Sri Banamali panda, Aged about 40 years, Son of Sri parakshita panda, At present working as Draftsman Grade II in the establishment of Survey of India, No.10, D.O.(SEC) Survey Bhavan, P.O.P.S Laboratory, Bhubaneswar, Dist: Khurda.
3. Ganesh Chandra Sahoo, Aged about 41 years, Son of Sri Jagabandhu Sahoo, at present working as Draftsman Grade.II in the establishment of Survey of India, At.11 D.O.(SEC) Survey Bhavan, P.O.R.R. Laboratory, Bhubaneswar, Dist .Khurda.
4. Akhil Kumar Nayak, Aged about 40 years, Son of Sri Juanga Nay k, at present working as Draftsman Gr.II in the establishment of Survey of India, No.10, D.O.(SEC) ,Survey Bhavan, P.O.R.R. Laboratory, Bhubaneswar, Dist .Khurda.
5. Gobardhan Jena, Aged about 43 years, Son of late Dama Jena, At present working as Draftsman Gr.II in the Establishment of Survey of India,11 D.O .(SEC) , Survey Bhavan, P.O.R.R. Laboratory, Bhubaneswar, Dist: Khurda.
6. Bisikeshan Suna, Aged about 41 years, son of late Chaturbana Suna at present working as Draftsman Gr.II, in the Establishment of Survey of India,11 D.O.(SEC) , Survey Bhavan, P.O.R.R. Laboratory, Bhubaneswar, Dist: Khurda.

..... APPLICANTS .

By legal practitioner : M/s P.K.Mohapatra, A.K.Rath, Advocates.

- VERSUS -

1. Union of India represented through the Secretary, Ministry of Science and Technology, Department of Science and Technology, Technology Bhawan, Mehrauli Road, New Delhi-110 016.
2. Surveyor General of India, Hathibarkela Estate Dehra Dun(Uttar Pradesh), P.I.N.-1.
3. Additional Surveyor General, No.13-Wood Street, Calcutta-700 016(East Bengal).
4. Director, Survey of India, South Eastern Circle, Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.
5. Sri Panchanan Nayak, at present working as Draftsman, Division No I in the establishment of Survey of India, No. D.O. S.E.C. Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.
6. Minatadas, at present working as Draftsman Division I in the establishment of Survey of India, No.10, D.O. (SEC), Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.
7. Smt. S.B. Mohanty, at present working as Draftsman Division I in the establishment of Survey of India, No.10, D.O. (SEC), Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.
8. Kumari Sibani Ghose, at present working as Draftsman Division No. I in the establishment of Survey of India, No.10 D.O. (SEC) Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.
9. Sri Simanchala Sahu, at present working as Draftsman Division II in the establishment of Survey of India, No.10, D.O. (SEC), Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.
10. Sunanda Jena, at present working as Draftsman Division I in the establishment of Survey of India No.10 D.O. (SEC), Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.
11. Sri Debendra Majhi, at present working as Draftsman Division-I in the establishment of Survey of India No.10 D.O. (SEC), Survey Bhawan, P.O.R.R Laboratory, Bhubaneswar, Dist. Khurda.

.... RESPONDENTS.

By legal practitioner : Mr. S.B. Jena, Additional Standing Counsel.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985, six applicants have prayed for a direction to the Respondents to pay the Spl. pay and allowances to the applicants from 1-5-1994 till date and for a further direction not to promote the employees who are juniors to the applicants to the post of Draftsman Division No.I and to give promotion to the Applicants.

2. Respondents have filed counter opposing the prayers of the Applicants. No rejoinder has been filed.

3. We have heard Mr.P.K.Mohapatra, learned Counsel for the Applicants and Mr.S.B.Jena, learned Additional Standing Counsel (Central) appearing for the Respondents and have also perused the records.

4. The case of the applicants is that they are regular Draftsman Grade II. They have been given Ad-hoc promotion to the post of Draftsman Gr.I as also Section Officer, on Ad-hoc basis. Even though instructions provided that Ad-hoc promotion should not be made for more than one year without obtaining prior approval of the Surveyor General of India, the Applicants have been given Ad-hoc promotion for long periods. Applicants have mentioned in para -(E) of the Original Application that while they were holding the post of Draftsman Gr.I on Ad-hoc basis from time to time, they

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have been paid Spl. pay of Rs. 250/- per month Approximately..
Applicants grievance is that from 1-5-1994, their Ad-hoc promotion as Draftsman Gr.I has come to an end and in order dated 29.6.1995, Private Respondents 5 to 11 who are juniors to the Applicants have been given Ad-hoc promotion to the post of Draftsman Grade-I. In the context of the above facts, they have come up in this Original Application with the prayers referred to earlier.

5. Respondents in their counter have stated that promotion to Draftsman Grade-I is given on All India seniority basis. Because regular promotion could not be given on All India seniority basis, due to exigencies of public work, applicants were given Adhoc promotion but in order dated 29.12.1995 46 Draftsman Grade-II have been regularly promoted to Draftsman Grade-I (Annexure-R/1) and out of these, 19 persons have been posted in Bhubaneswar Region. Respondents have stated that as on the date of filing of counter, no person is on Adhoc promotion to the post of Draftsman Grade-I. They have also stated that Ad-hoc promotion does not confer any right on the candidate to continue in the higher post. On the above grounds, they have opposed the prayers of the Applicants.

6. From the pleadings of the parties, it appears that the main grievance of applicants is against Adhoc promotion given to their juniors to the post of Draftsman Grade-I in order dated 29.6.1995 at Annexure-5. Some of

these persons who have been given such Ad-hoc promotion at Annexure-5 are private Respondents 5 to 11. The averments made by the Respondents that on the date of filing of counter, no person is on Ad-hoc promotion, has not been contested by the Applicants by filing any rejoinder. In view of this, it must be held that the Applicants can have no grievance now regarding granting of Ad-hoc promotion to the post of Draftsman Grade-I to their Juniors.

7. As regards the prayer that the Respondents should be directed to give regular promotion to the Applicants to Draftsman Grade-I, Respondents have pointed out that such regular promotion is given on the basis of all India seniority in Draftsman Grade-II and the applicants are much junior in the said All India seniority list for getting regular promotion to Draftsman Gr.I. In view of this, it is held that the applicants must await their turn for such promotion and their prayer for a direction to the Respondents to give them regular promotion to the post of Draftsman Gr.I is without any merit and the same is rejected.

8. It has been submitted by learned counsel for the Applicants in course of hearing that ~~and~~ ^{of} the 19 persons who have been regularly promoted to the post of Draftsman Gr.I and have been posted to Bhubaneswar Region, none have joined ^{any} ~~any~~.

in Bhubaneswar Region. Departmental Authorities are getting the work of Draftsman Gr.I done by the Applicants. Some of them have also been promoted to officiate to the post of Section Officer as and when occasion arises. But from 1-5-1994 for discharging higher responsibility no extra allowance is being paid to them which was being paid to them earlier on their Ad-hoc promotion to the post of Draftsman Grade-I. In view of this, learned counsel for the Applicants prays for a direction to the Respondents to pay the Applicants the Spl. allowance during the period, they have actually discharged the duties of Draftsman Gr.I and Section Officer. Respondents in their counter have made no averment with regard to payment of Spl. Allowances and in view of this, it is difficult to take a view in the matter because of the factual aspects involved. In view of this, we dispose of this prayer with a direction to the Applicants that they may file representations to the Respondent No.4 praying for grant of such Spl. Allowance for the periods they have worked in the higher post. Such representation should be filed within a period of 60(sixty) days from the date of receipt of a copy of this order. Respondent No.4 is directed to dispose of such representation of the Applicants strictly in accordance with Rules and eligibility of any of the Applicants to get such Spl. Allowance within a period of 90(ninety) days from the date of receipt of such representation and intimate the result thereof to the Applicants within a period of 15(fifteen) days thereafter.

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9. In the result, the Original Application is disposed of with the observations and directions made above. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

S. SOMNATH SOM
(SOMNATH SOM)
VICE-CHAIRMAN
28.3.2001

KNM/CM.