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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NOS. 604, 605 & 606/95
Cuttack this the 20th day of Oct/2000

IN O.A.604/95

Smt. Kalpana Sahoo ... Applicant
-VERSUS-
Union of India & Others ... Respondents

IN O.A.605/95

Soumendra Kr. Mohanty & another ... Applicants
-VERSUS-

Union of India & Others ... Respondents

IN O.A.606/95

Naba Kishore Samal ... Applicant
-VERSUS-
Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? 42
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? 42

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
20-10-2000

20-10-2000
(G. NARASIMHAM)
MEMBER (JUDICIAL)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application Nos. 604, 605 & 606/95
Cuttack this the 20th day of Oct./2000

CORAM:

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

IN O.A.604/95

Smt. Kalpana Sahoo, aged about 45 years,
W/o. Late Govinda Chandra Sahoo,
working as Khalasi, Office of the
Executive Engineer, Eastern Rivers Division
Central Water Commission, Plot Nos. 13 & 14,
Vanivihar, Bhubaneswar

...
Applicant
-VERSUS-

1. Union of India represented by the Secretary, Ministry of Water Resources, Shram Sakti Bhawan, Rafi Marg, New Delhi
2. The Chairman, Central Water Commission, Sewa Bhawan, R.K.Puram, New Delhi-66
3. The Superintending Engineer, Hydrological Observation Circle, Central Water Commission, Plot No.25-R, At/PO: Sahid Nagar, Bhubaneswar-7

... Respondents

IN O.A.605/95

1. Sri Soumendra Kumar Mohanty, aged about 40 years, S/o. Barendranath Mohanty, working as Khalasi, Office of the Asst. Engineer, S.Subdivision, Central Water Commission, Balasore
2. Abhaya Kumar Dash, aged about 47 years, S/o. Upendra Kumar Dash, working as Khalasi, Office of Executive Engineer, Eastern Rivers Division, Central Water Commission, Plot No.13, 14, Vanivihar Bhubaneswar

Applicants

-VERSUS-

1. Union of India represented by the Secretary, Ministry of Water Resources Shram Sakti Bhawan, Rafi Marg, New Delhi
2. The Chairman, Central Water Commission, Sewa Bhawan, R.K.Puram, New Delhi-66
3. The Superintending Engineer, Hydrological Observation Circle, Central Water Commission Plot No. 25R, At/PO: Sahidnagar, Bhubaneswar-7

100

Respondents

IN O.A. 606/95

Sri Naba Kishore Samal, aged about 44 years,
 S/o. Sri Suresh Chandra Samal, working as
 Khalasi, Office of the Asst.Engineer,
 Baitarani Sub-Division, Central Water Commission,
 Delta Colony, Bhubaneswar-2

...

Applicant

-VERSUS-

1. Union of India represented by the Secretary, Ministry of Water Resources, Shram Sakti Bhawan, Rafi Marg New Delhi
2. The Chairman, Central Water Commission Sewa Bhawan, R.K. Puram, New Delhi-66
3. The Superintending Engineer, Hydrological Observation Circle, Central Water Commission, Plot No.25-R, At/PO: Sahid Nagar, Bhubaneswar-7

...

Respondents

IN ALL THE CASES

Advocates for the Applicants

M/s.Ganeswar Rath
 S.N. Mishra
 A.K. Panda

Advocates for the Respondents

Mr. A.Routray,
 Addl.Standing Counsel
 (Central)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL) : The applicants in these three Original Applications are Khalasis attached to different office, in Orissa under the Central Water Commission. The cause of action for filing these Applications is issuance of notification dated 11.7.1995(Annexure-3 in all the O.A.s), inviting applications for filling up some posts of Observer Grade II. Hence these three Applications are being disposed of through this common order, though the arguments in each Application were heard separately.

2. At the stage of hearing it was submitted by the applicants that the main prayer for quashing Annexure-3 is not pressed as having become infructuous. Hence the facts

relevant in this connection need not be discussed. Therefore, the Applications were considered with regard to the other prayer, i.e. for issuing direction to Respondents to absorb the applicants in the post of Observer Gr.II.

While the applicant, Smt. K. Sahu in O.A. 604/95 joined as Khalasi in December/1981, under Rehabilitation Scheme, applicant No.1, Soumendra Kr. Mohanty in O.A. 605/95 in January/81 and applicant Abhaya Kr. Dash in the same O.A. in July/1975 and applicant N.K. Samal in O.A. 606/95 in November/1977 joined as Khalasis.

It is the case of the applicants that the post of Observer Gr.II is a non-selection post and as such seniority in service is to be taken into account and by virtue of their seniority, they are entitled to be absorbed in that Grade.

3. In the counter the Department specifically denied the averments of the applicant that the post of Observer Gr. II is a non-selection post. According to Department, it is neither a non-selection nor a promotion post from Khalasis/Work Sarkar Gr.III. The post is basically a direct recruitment post and as such the Department invited applications under Annexure-3 from the departmental candidates, who fulfilled all the eligibility conditions for the said posts. The posts of Khalasi/Work-Sarkar Gr.III, to which the applicant belongs are under Workcharged Establishment, which is altogether a different cadre. The promotional channel for Khalasi is Work Sarkar Gr.III, Worksarkar Gr.II and Worksarkar Gr.I and respective pay scales of Worksarkar Gr.II and Gr.I are either similar or higher than the pay scale of Observer Gr.II. The applicants are not that senior as mentioned in their Applications. On these grounds Respondents prayed for

dismissal of these Applications.

4. No rejoinder has been filed by the applicants.
5. We have heard Shri Ganeswar Rath, the learned counsel for the applicants and Shri A.Routray, the learned Addl. Standing Counsel appearing for the Department. Also perused the records.
6. The specific case of the Department is that the post of Observer Gr.II is a direct recruitment post and it is neither a non-selection nor promotional post for Khalasis/Worksarkar Gr.III. This categorical averment has not been countered by the applicants through any rejoinder. Since the post in question is a direct recruitment post, and not a promotional post, through selection method, question of absorbing the applicants in those posts will not arise.
7. In the result, we do not see any merit in these Applications, which are accordingly dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

20.10.2010

20-10-2010
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//