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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

O.A.NOS. 137 TO 153 OF 1996

Cuttack, this the 20th day of September, 2001

Binod Behera and others, etc.... Applicants

Vrs.

Union of India and others .... Respondents

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 Tribunal or not? No.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

(SOMNATH SOM)  
VICE-CHAIRMAN  
20.9.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

O.A.NOS. 137 TO 153 OF 1996  
Cuttack, this the 20th day of September, 2001

CORAM;

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

.....

In OA No.137/96

1. Binoda Behera, aged 32 years, son of Babaji Behera
  2. Ramachandra Barik, aged 25 years, son of Maheswar Barik, nephew of Iswar Barik.
  3. Talim Behera, aged 32 years, son of late Kanduri Behera.
  4. Smt. Bhabei Behera, aged 20 years, d/o Alekha Behera.
  5. Lokanath Behera, aged 26 years, son of late Karunakar Behera, Grandson of Uchhaba Behera.
  6. Hadibandhu Behera, aged 26 years, son of late Nisakar behera (from displaced family of lt. Bholi Behera.
  7. Hara Prasad Behera, aged 21 years, s/o Sudhakar Behera
  8. Sarat Behera, aged 32 years, s/o Dwijabar Behera
  9. Bidhi alias Budhiram Behera, aged 30 years, son of Gandharb Behera.
  10. Binu Behera, aged 26 years, s/o Bandhu Behera
  11. Smt. Kanchan Behera, aged 25 years, w/o Sankar Behera, daughter-in-law of Bai Behera
- All of village Rangamatia-samil-Gadakana,  
P.O-Mancheswar R.S., P.S.-Mancheswar, Bhubaneswar-17,  
District-Khurda, Orissa
- S Som.*

In OA No.138/96

Subash Chandra Sahoo, aged about 25 years, son of late Alekha Sahoo of Rangamatia, P.O-Mancheswar R.S., P.S-Mancheswar, Dist.Khurda.

In OA No.139 of 1996

Kishore Bhoi, aged 21 years, s/o Bharat Bhoi of village Bhotapada-samil-Gadakana, P.O-Mancheswar R.S., P.S-Mancheswar, District-Khurda.

In OA No.140 of 1996

Babuli Charan Nath, aged about 28 years, s/o Dhruva Charan Nath of village Mirjapur, P.O-Madhuban Hat, P.S-Dharmasala, Dist.Jajpur.

In OA No.141 of 1996

Muralidhar Maharana, aged about 30 years, s/o Uchhaba Maharana of village Swarga Brahmapur, P.O-Sadeipur, Via-Raghunathpur, P.S/Dist.Jagatsinghpur.

In OA No.142 of 1996

Subash Chandra Sahoo, aged about 26 years, s/o Sudhakar Sahoo of village Balipada, P.O-Dadha, P.S-Mancheswar, District-Khurda.

In OA No.143 of 1996

Dhirendra Prasad Bej, aged 22 years, s/o Gangadhar Bej, of village Bidyadharpur, P.O-Chhatia, P.S-Badachana, Dist.Jajpur.

In OA No.144 of 1996

Sri Dharjyadhar Nath, aged 22 years, s/o late Hadui Nath of village/PO-Badamundali, P.S/Dist.Cuttack.

In OA No. 145 of 1996

Laxminarayan Sahoo, aged about 27 years, s/o Purastam Sahoo of village Baral, P.O-Kalapada, P.S-Sadar, Dist.Cuttack.

In OA No.146 of 1996

Harihar Behera, aged about 30 years, s/o Dullava Behera of village Jaripatna, P.O-Barimund, P.S-Mancheswar, District-Khurda.

In OA No. 147 of 1996

Akhaya Kumar Pal, aged about 30 years, s/o Khetrabasi Pal of At/PO-Kaitha, P.S-Mahanga, Dist.Cuttack.

In OA No.148 of 1996

Sarat Kumar Panda, aged about 24 years, son of Alekha Chandra Panda of At/PO-Kalarahanga, P.S-Mancheswar, Dist.Khurda.

In OA No.149 of 1996

Narayan Bihari, aged about 28 years, s/o Shyama Bihari of At/PO-Sankhtarash, P.S-Cuttack Sadar, Via-Gopalpur, Dist.Cuttack

In OA No.150 of 1996

Biswanath Subudhi, aged about 25 years, s/o Umacharan Subudhi, Village-Injana, P.O-Kalarahanga, P.S-Mancheswar, Dist.Khurda.

In OA No. 151 of 1996

Laxmidhar Das, aged about 28 years, s/o late Dijabar Das of Village Rangamatia, P.O-Mancheswar R.S., P.S-mancheswar, Dist.Khurda.

In OA No.152 of 1996

Trilochan Singh, aged about 27 years, s/o Purnananda Singh of Vill-Goudapatna, P.O-Kaitha, P.S-Mahanga, Dist.Cuttack

In OA No. 153 of 1996

Manoj Kumar Das, aged about 25 years, s/o Prafulla Kumar Das of village Rangamatia, P.O- Mancheswar R.S., P.S-Mancheswar, District-Khurda

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...APPLICANTS

Vrs.

In OA No.137/96

1. Union of India, represented through its Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. South Eastern Railway, represented through its General Manager, Garden Reach, Calcutta-700 043.
3. Chief Workshop Manager, Coach Repairing Workshop, Mancheswar, P.O-Mancheswar R.S., P.S.-Mancheswar, District-Khurda.
4. Deputy Commissioner, Rail Co-ordinations & ex officio Deputy Secretary to Government, Transport Department, Orissa, Bhubaneswar.
5. Land Acquisition Collector, Khurda District (old Puri), At/PO/Dist.Khurda

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.RESPONDENTS

In OANos. 138 to 153 of 1996

1. Union of India, represented through its Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. South Eastern Railway, represented through its General Manager, Garden Reach, Calcutta-700 043.
3. Chief Workshop Manager, Coach Repairing Workshop, Mancheswar, P.O-Mancheswar R.S., Dist.Khurda.
4. Deputy Commissioner, Rail Co-ordinations & ex officio Deputy Secretary to Government, Transport Department, Orissa, Bhubaneswar

.....

...RESPONDENTS

In all the O.As.

Advocates for applicants - M/s Dhaneswar Mohanty  
B.Ray Mohapatra  
S.Dash & P.K.Mishra

Advocates for respondents - Mr.Ashok Mohanty  
for Railway-Respondents  
&  
Mr.K.C.Mohanty,  
Govt.Advocate for R-4 &  
R-5 in OA No.137/96  
& for R-4 in other O.As.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

These 17 O.As. have been heard separately, but the applicants are similarly situated. They have made identical averments in these petitions and have also prayed for similar relief. The respondents have filed identical counters and the rejoinders filed by the applicants in all these cases are also on similar lines. In view of this, one order will cover these cases. For the purpose of consideration of the issues involved, the facts of OA No.137 of 1996 are being set out in detail. The facts of other cases will also be briefly referred to in respect of distinguishing features in those cases.

2. In OA No.137 of 1996 the eleven applicants have prayed for a direction to Secretary, Ministry of Railways (Respondent no.1), General Manager, S.E.Railway (respondent no.2), and Chief Workshop Manager, Coach Repairing Workshop, Mancheswar to provide employment assistance to the applicants on the grounds that their lands have been acquired for establishment of Coach Repairing Workshop at Mancheswar.

3. The applicants are permanent residents of village Gadakana, Samil Rangamatia in the district of Khurda. Notification under Section 4(1) of the Land Acquisition Act was issued in November 1979 (Annexure-1) for acquisition of Ac.2.60 decimals of

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land from Plot No.3582 in Khata No. 607. The Land Acquisition Collector passed the award in favour of Tahasildar, Bhubaneswar, as plot No.3582 was recorded as Government Anabadi land. It further appears that while the applicants claimed that Plot No.3582 is in Khata (Holding) No. 607, the Government's stand was that this plot is in Khata No.1076. As the title of the applicants was disputed, the matter was referred to Subordinate Judge, Bhubaneswar, u/s 30 of the Land Acquisition Act, who in his order dated 30.10.1990 at Annexure-2 held that the applicants have the right, title and interest over the above land and are entitled to receive the compensation. The order was challenged before the Hon'ble High Court in First Appeal No.39 of 1991 which was dismissed in order dated 27.1.1994. The applicants' grievance is that as their land has been acquired for establishment of a major Railway project, they are entitled to employment assistance. The applicants have stated that as their title was under dispute, their names were not recommended by the State of Orissa. When the applicants contacted the Railway authorities in July 1995, they were informed that the Scheme has been closed. The applicants have stated that as they have parted with their homestead land, they are entitled to employment assistance, one for each displaced family according to the Scheme at Annexure-4.

J. Som.

4. Applicants in the other 16 O.As.

referred to above, have also made similar averments. On a perusal of the records, it is seen that in these 16 O.As. lands were acquired from Khata No.1027/26 and 1027/36 from two plots, Plot Nos.4685 and 3810 and the

lands to the extent of 0.0142 to 0.002 decimals were acquired from these two plots in respect of each of the applicants. There is some discrepancy with regard to names of two applicants and these will be referred to later. In the context of such acquisition of land of these applicants, they have come up with the prayer similar to the prayer of the eleven applicants in OA No.137 of 1996.

5. Respondent-Railways in their separate counters filed in each of these O.As. have taken the stand that lands were acquired for starting the Carriage Repair Workshop at Mancheswar. At that time, for smooth co-ordination between the Railways and the State Government, the State Government had appointed an officer designated as Deputy Commissioner, Rail Co-ordination and ex officio Deputy Secretary to Government of Orissa in the Commerce & Transport Department. Deputy Commissioner, Rail Co-ordination in his letter dated 11.5.1982 (Annexure-A to the counter filed in OA No.137 of 1996) furnished a list of persons whose lands have been acquired for establishment of Carriage Repair Workshop at Mancheswar. For the purpose of providing employment assistance to them, a Selection Committee was constituted by the Railways in which apart from Railway officer, Sub-Divisional Officer, Bhubaneswar, was a member. Selection took place on four occasions on 29.11.1982, 16.10.1984, 17.10.1984 and 16.10.1985. Altogether 175 candidates appeared at the interview out of 97 got selected and were offered employment assistance and after the fourth selection the file was closed so far as employment assistance to

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displaced persons is concerned. Thereafter the Land Acquisition Officer, Puri, in his letter dated 14.7.1988, which is at Annexure-F to the counter filed in OA No.151 of 1996 sent a list of 22 persons. Deputy Commissioner, Rail Co-ordination also sent a list of fifteen persons in his letter dated 17.9.1993. The Railway-respondents have stated that names of the applicants in OA No.137 of 1996 do not find place in these two lists. They have further stated that after appointment of 97 persons and closure of the file, the State Government have written a letter dated 6.1.1989 (Annexure-B to the counter filed in OA No.137 of 1996) stating that the Railways have taken all the eligible displaced persons. It is stated in this letter that in July 1988 the General Manager assured the Chief Minister to make proposal for absorption of 200 people out of pending 4000 applications. The State Government in this letter wanted the Railways to take urgent action with regard to these 200 people. The Railway-respondents have further stated that all the eligible persons have been given appointment and the State Government have also said so and therefore the question of giving further employment assistance does not arise. It is further stated that the Land Acquisition Officer is not authorised to sponsor twenty-two persons directly to the Chief Workshop Manager. They have also stated that the Scheme of the Railways is in the nature of giving employment assistance to the displaced persons and does not confer a permanent right to the persons to get absorbed into the Railways. On the above grounds, the Railway-respondents have opposed the prayers of the applicants in all these O.As.

S. J. Som.

6. The applicants in OA No.137 of 1996 have stated in their rejoinder that as the dispute with regard to their title to the concerned land was settled ultimately by the Hon'ble High Court on 27.1.1994, their names were naturally not included in the earlier lists, but thereby they cannot be deprived of their right for consideration. They have also stated that the State Government's intimation to the Railways that all the displaced persons have been provided with employment assistance cannot shut out their right for consideration for getting employment assistance. On the above grounds, the applicants in OA No.137 of 1996 have reiterated their prayer in the rejoinder. The learned counsel for the petitioners in the other 16 O.As., Shri D.Mohanty has filed a combined rejoinder in all these O.As. at the time of hearing and this has also been taken note of.

7. We have heard Shri D.Mohanty, the learned counsel appearing for the petitioners and Shri Ashok Mohanty, the learned Senior Panel Counsel (Railways) appearing for the Railway-respondents and Shri K.C.Mohanty, the learned Government Advocate appearing for respondent nos.4 and 5 in OA No.137 of 1996 and respondent no.4 in the other O.As.. We have also perused the records. The learned counsel for the petitioners has relied on two decisions of this Bench of the Tribunal in the case of Debendra Sahoo v. South Eastern Railway and others, OA No.98 of 1994 - decided on 10-9-1995, and the case of Babaji Sahoo v. South Eastern Railway and others, OA No. 257 of 1994 - decided on 7.12.1995. He has also relied on the

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following decisions:

- (i) State of Punjab and others v. Surinder Kumar and others, AIR 1992 SC 1593;
- (ii) Shreedharan Kallat v. Union of India and others, AIR 1996 SC 640;
- (iii) K.Ajit Babu and others v. Union of India and others, AIR 1997 SC 3277;
- (iv) State of Orissa v. Hari Behera and another, 1999 (II) OLR 236;
- (v) S.I.Rooplal and another v. Governor through Chief Secretary, Delhi and others, AIR 1999 SC 594; and
- (vi) Maharashtra Vikrikar Karmachari Sangathan v. State of Maharashtra and another, AIR 2000 SC 622.

We have perused these decisions. The learned counsel for the petitioner has filed with a memo the relevant circulars of the Railway Board providing for employment assistance and we have gone through the same. Before considering the submissions made by the learned counsel of both sides, the provisions of the Scheme of the Railways for providing employment assistance in connection with acquisition of land will have to be noted.

Sd/-

8. In Railway Board's letter dated 31.12.1982/1.1.1983, which was circularised as Establishment Serial No.322 of 1987, the basic norms of the Scheme have been laid down. It is noted that employment assistance is to be considered in case of large scale acquisition of land for projects. This makes it clear that for acquisition of small parcel of land in

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a particular area, employment assistance is not envisaged. Secondly, it is mentioned that Land Acquisition Review Committee had considered the question of Government's responsibility for rehabilitation of evicted families as a result of acquisition of lands for projects. It is further provided that the individual concerned should have been displaced himself or he should be the son/daughter/ward/wife of a person displaced from land on account of acquisition of the land by the Railways for the project. It is also provided that this dispensation should be limited to recruitments made from outside in direct recruitment categories and to the first recruitment or within a period of two years after the acquisition of the land whichever is later. It is further provided that the displaced persons who have derived benefit through the State Government in the shape of alternative cultivable land will not be entitled. The concerned persons will have to go through the normal recruitment procedure and have to be found suitable by the appropriate Recruitment Committee. In the instruction dated 9.6.1983 which was circularised as Establishment Serial No.325 of 1987 it has been mentioned that a question has been raised whether persons who have got cash compensation through the State Government should be considered for employment in the Railways. In this circular it has been ordered that the Zonal Railway should take a decision on individual request taking into account the extent of land acquired, amount of compensation paid, size of the family to be supported, etc. (emphasis supplied). In another letter dated 22.3.1985, which was circularised

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as Establishment Serial No.341 of 1987, a question has been considered if in case of property belonging to Hindu undivided family, one member of the undivided family will be offered job on preferential basis. It has been clarified that only one member per family will be considered for employment assistance. It has been further clarified that in case land gets divided amongst the members of the Hindu undivided family and such division had taken place shortly before acquisition, only one member of the undivided family should get employment assistance and in case of persisting dispute amongst the divided family members, no offer of employment assistance should be made. In another circular dated 10.11.1989 filed by the learned counsel for the petitioners it has been laid down that in case of acquisition of land where employment assistance is justified a notification should be issued locally where the land is acquired calling for applications from eligible persons. This notification should clearly indicate the date by which such applications should be submitted and a reasonable period of time should be allowed and it should be made clear that no application received after the specified date will be entertained. There are various other details in these instructions like verification of specimen signature, etc., which do not concern us in the present dispute.

S. Jom.

9. The purpose of mentioning the above salient points of the scheme is to underscore the point that the scheme does not confer a vested right on the evicted/displaced families to get job in the Railways. Even in the case of compassionate appointment, the

Hon'ble Supreme Court

/ have held that right to get employment in such a case is not a vested right. In case of establishment of major Railway project in which large scale acquisition of land is involved, displaced/evicted families are entitled for consideration for jobs in the project. Obviously, after the project has been established with full complement of staff, the Railway authorities cannot be reasonably expected to create posts for giving employment assistance to such persons.

10. The other aspect of the matter is that the persons whose lands have been acquired must be those who have been evicted and displaced from their lands. In the instasnt case, the lands of all the applicants in village Gadakana, Samil Rangamatia have been acquired. They are still continuing in the same village and have not been displaced/evicted in that sense. It has been urged by the learned counsel for the petitioners that as the applicants' lands have been acquired, they have been displaced from the lands so acquired and therefore, they must be treated as displaced/evicted persons. We have ear~~l~~ier referred to the circular of the Railways that where cash compensation has been received, the extent of land acquired will have to be taken into consideration. In a large number of these cases, acquisition of land is between 1 (one) decimal and 2(two) decimals. In none of the circulars relied upon by the learned counsel for the petitioners it has been provided that even if one decimal of land of a person is acquired for a Railway project, he acquires a right to be considered for employment in the project which is set up.

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11. It is also to be noted that apart from the applicants in OA No.137 of 1996, in respect of other applicants in the 16 other O.As. there was no dispute about their title. Their lands were acquired even going by the declaration in 1987 and they have approached the Tribunal only in 1995 and 1996. There is no averment in these applications why they have not approached the Tribunal earlier.

12. Originally when employment assistance was considered for 175 persons out of which 97 were given employment, the names of such persons were forwarded by the Deputy Commissioner, Rail Coordination-cum-Deputy Secretary to Government of Orissa, Commerce & Transport Department, on 14.7.1988 the Land Acquisition Officer, Puri, has forwarded the list of 22 persons to the Chief Workshop Manager directly. It is not for the Land Acquisition Officer, Puri, to forward names to the Railway authorities and therefore, the Chief Workshop Manager has been right in not considering these persons. As regards the list of 15 names sent by the Deputy Secretary on 17.9.1993, these have been forwarded long after the establishment of the project and after the first recruitment has been done and long after two years of establishment of the project and therefore, under the scheme these names cannot be considered.

J. Som.

13. The applicant in OA No.152 of 1996 is one Trilochan Singh, but in the list forwarded the name appears as Trilochan Sahu. Similarly, the applicant in OA No.142 of 1996 is one Subash Chandra Sahu, son of Sudhakar Sahu. He has claimed employment

assistance as Ac.0.01½ of land of one Alekh Sahu has been acquired. But he has mentioned that his father's name is Sudhakar Sahu, and another person with the same name Subash Chandra Sahu is the applicant in OA No.138 of 1996 and he has mentioned that his father's name is late Alekh Sahu. Thus, it appears that these two applicants are claiming employment assistance in respect of the land of the same person Alekh Sahu which was acquired. As per instructions, in such case, no employment assistance is required to be given.

14. The learned counsel for the petitioners has relied on two decisions of this Bench of the Tribunal in Debendra Sahoo's case (supra) and Babaji Sahoo's case (supra). In the first case, the applicant, whose land measuring Ac.0.29 situated in village Gadakana was acquired, had approached the Tribunal for a direction to the Railways to provide him with employment assistance. The Tribunal in their order dated 10.9.1995 took note of the fact that earlier 175 persons were considered and 97 were given employment assistance. The Tribunal also noted that the scheme has been closed. After considering the rival submissions, the Tribunal observed as follows:

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".....It is not possible to direct the respondents to consider the applicant's claim at this belated stage specially in view of the fact that, according to the respondents, no vacancy exists in the workshop. Strictly on facts, there is, therefore, no scope for giving the reliefs prayed for by the applicant."

Having said thus, the Tribunal noted that the applicant had lost one of his limbs in road accident and this disability would render his struggle for survival more difficult and would call for extra consideration. To that extent and only in that context, the Tribunal stated that the case of the applicant requires reconsideration as a physically handicapped person. This decision does not in any way go to support the cases of the applicants before us. In the other decision, OA 257/94, one Babaji Sahoo had approached the Tribunal with a prayer for direction to the Railways to give him employment assistance. The Tribunal noted the circular of 10.11.1989 which provides for issuing of a public notice and observed that in that case no public notice was issued. The Tribunal also noted that the land of the applicant was acquired in 1989. On that basis the Tribunal directed that the case of the applicant should be reconsidered without taking note of the fact that the scheme was deemed to have been closed in January 1988. In the cases before us, lands have been acquired much earlier than issuance of this circular dated 10.11.1989 providing for issuing of public notice. We have already noted that the applicants in these O.As, except in OA No.137 of 1996, had no dispute regarding their title over the land acquired from them, but they have approached the Tribunal after considerable delay. Therefore, coupled with the fact that their lands were acquired much prior to 1989, non-issue of public notice would not give them a right for consideration. Moreover, the first recruitment for the Workshop and the period of two years are already long over and the

J. Som.

Tribunal noted in the two earlier decisions that the scheme has already been closed. In view of this, these two decisions do not provide any support to the cases of the applicants in the O.As. other than OA No.137 of 1996.

15. So far as the applicants in OA No.137 of 1996 are concerned, admittedly there was a dispute regarding their title and this dispute was finally resolved by the Hon'ble High Court when the First Appeal was disposed of on 27.1.1994. Had there been no dispute in respect of their title, then obviously their names would have been considered along with the other 175 persons. It is to be noted that the applicants in this case have clearly stated that their land was acquired in the year 1979. The scheme having been closed in 1988, a fact which has been taken note of by the Tribunal in their two earlier decisions referred to above, they cannot claim that their cases should be considered because we have already held that this is not a vested right which can be exercised at any time. Obviously after the recruitment for the project has been made, there is no scope for providing further jobs to displaced persons who for whatever reasons might have come up later.

16. Some of the decisions cited by the learned counsel of both sides and which have been noted earlier, can be referred to at this stage. In Hari Behera's case (supra), the Hon'ble High Court of Orissa have held that when earlier decision has not taken note of some of the relevant provisions of law, the earlier decision must be held to be per incuriam and is not binding. In this case we have noted that the

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earlier two decisions of the Tribunal are clearly distinguishable and this decision therefore is not of any relevance to the present dispute. In Surinder Kumar's case (supra) the Hon'ble Supreme Court have held that a decision is available as a precedent only if it decides a question of law. In the instant case, in the two earlier decisions the Tribunal had upheld the stand of the respondent-Railways that the scheme had been closed and the direction given in both the cases was based on facts which are not similar to the facts of these cases and therefore, the decision in Surinder Kumar's case(supra) has no relevance. In S.I Rooplal's case(supra) the Hon'ble Supreme Court have emphasised the importance of consistency in judicial decisions and the rule of precedence in that context. As we have considered the earlier two decisions and have distinguished those, this decision also does not provide any support to the case of the applicants. In Shreedharan Kallat's case(supra) the Hon'ble Supreme Court have held that an issue which has been settled by the judgment of the Hon'ble High Court cannot be interfered by Administrative Tribunal at the instance of party who was not adversely affected, and such action of the Tribunal is against judicial propriety. It is to be noted in this connection that the Railways did not approach the Hon'ble High Court challenging the decision of the Tribunal in OA No. 257/94. They had filed Review Application no.11 of 1996 before the Tribunal, along with an application for condonation of delay, and the Review Application was dismissed with cost. This order on the R.A. was challenged before the

J. V. M.

Hon'ble High Court of Orissa in OJC No. 18357 of 1997, and the order dated 20.9.1999 of the Hon'ble High Court has been enclosed by the learned counsel for the petitioners, along with a bunch of documents. The Hon'ble High Court in that order noted that the Tribunal have ascribed reasons for refusing to condone delay and these reasons do not suffer from any error of law and therefore, the Hon'ble High Court have held that there was little scope for the writ court to interfere with the impugned order. From this it is clear what the Hon'ble High Court considered is the Tribunal's order rejecting the prayer for condonation of delay. Their Lordships have not gone into the merits of the decision of the Tribunal in OA No. 257 of 1994 and therefore, it cannot be said that the decision of the Tribunal in OA No. 257 of 1994 has been confirmed by the Hon'ble High Court. In view of the above, Shreedharan Kallat's case (supra) does not provide any support to the cases of the applicants before us. The next decision referred to is K.Ajit Babu's case (supra). In that decision it has been held by the Hon'ble Supreme Court that where a matter comes up before the Tribunal and there are already earlier decisions of the Tribunal in the same matter, then the earlier decision has to be taken note of and in case of dissent, the matter has to be referred to a larger Bench. We note that the earlier two decisions of the Tribunal had been rendered by Single Bench and those decisions have been held distinguishable by us and in view of this, K.Ajit Babu's case (supra) is not relevant for the present purpose. In Maharashtra Vikrikar Karmachari Sangathan's case (supra) the

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Hon'ble Supreme Court have considered the principle of constructive resjudicata and that is not an issue involved in the present cases.

17. In view of our discussions above, we hold that the applications are without any merit and the same are accordingly rejected but without any order as to costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
20.9.2001  
VICE-CHAIRMAN

AN/PS