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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

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ORIGINAL APPLICATION NO.720 OF 1996  
Cuttack, this the 2<sup>nd</sup> day of February, 1998

Narasingha Das Adhikari and others .... 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

(SOMNATH SOM)  
VICE-CHAIRMAN  
28.9.98

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.720 OF 1996  
Cuttack, this the 2nd day of February, 1998

**CORAM:**

**HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN**

.....

1. Narasingha Das Adhikari, s/o late Gour Ch. Das Adhikari
2. Rabindra Kumar Behera, s/o late Kunja Behera
3. Sankar Charan Das, s/o late Garuda Das
4. Y. Balakrishna S/o Y. Sri Ramulu
5. A.N. Barik, s/o late Umakanta Barik
6. Madhaba Chandra Mallik, s/o Biranchi Mallik
7. Krupasindhu Samal, s/o Kashinath Samal
8. Raj Kishore Kar, s/o Agadhu Kar
9. Satya Narayan Das s/o P.K. Das
10. Akshaya Kumar Routray, s/o late Sukadev Routray
11. Akshaya Kumar Rout, s/o Jadumani Rout
12. Laxmidhar Murmu, s/o H. Nana Murmu
13. Pradipta Kumar Mohanty, s/o B.C. Mohanty
14. Nagendra Kumar Dash, s/o S.S. Dash
15. Bharat Chandra Singh, s/o late C. Singh
16. Bhanja Kishore Barik, s/o late Haladhar Barik
17. Sanjoy Kumar Giri, s/o Gobardhan Giri
18. Soumyen Kumar Ghosh, s/o Banamali Ghosh
19. P.C. Mohanty, s/o late Dabai Mohanty
20. Minaketan Bhoi, s/o Tankadhar Bhoi
21. Pramod Kumar Muduli, s/o Sankarswar Muduli
22. Gouranga Mishra, s/o late G. Mishra
23. Biswanath Munda, s/o late Ananta Ch. Munda
24. Mahendranath Majhi, s/o late Chaitan Majhi
25. S. Krushnamurdi, s/o Rama Rao
26. A.N. Murty, s/o late A.N. Sarma

27. Ananta Charan Majhi, s/o late Sangram Majhi
28. Akshaya Kumar Mohanty, s/o Sri P.C.Mohanty
29. Parmendra Kumar Bage, s/o late Ram Sing Bage
30. Sk.Sakum, s/o Sk.Saledar
31. Arjun Charan Ojha, s/o Purna Krishna Ojha
32. Radha Krushna Panda, s/o Sri Sashadhara Panda
33. Ashok Kumar Sethi, s/o Rama Krishna Sethi
34. Jogendranath Bhanja, s/o Purusottam Bhanja
35. Ramesh Ch. Beka, s/o Daitari Beka
36. Sanyasi Singh, s/o B.Singh
37. Mayadhar Nayak, s/o Pravakar Nayak
38. Sitansu Kumar Parija, s/o late Bamadeb Parija
39. Ramesh Chandra Barik, s/o Brundaban Barik
40. Dinabandhu Rout, s/o Bidyadhar Rout
41. Matai Bari, s/o Bishnu Bari
42. Bhimsen Sinku, s/o late Govinda Sinku
43. Ananta Chandra Pati, s/o B.N.Pati
44. Murali Chandra Behera, s/o Payadhara Behera
45. P.C.Nayak, s/o Agani Nayak
46. Bhim Charan Murmu, s/o Badha Murmu
47. Upendra Pr.Sethi, s/o Kusha Sethi
48. Krushna Chandra Barik s/o late Judhistir Barik?
49. Duryodhar Sabar, s/o Panchu Sabar
50. Golam Ekbal Khan, s/o G.S.Khan
51. S.Mishra, s/o late Lokanath Mishra
52. Bhramarbar Basantia, s/o Uchhab Basantia
53. I.H.K.Bhuyan, s/o late M.C.Bhuyan
54. Anadi Ch.Das, s/o Hadibandhu Das
55. Guru Charan Sit, s/o late Satyanath Sit

56. B.N.Bhattacharjee, s/o B.K.Bhattacharjee
57. L.S.Rao s/o late L.V.Rao
58. S.Nagendra Babu, s/o S.Gopal Krishna
59. Fulri Murmu, s/o Bajinath Murmu
60. Surendranath Naik, s/o Gokul Ch.Naik
61. Mukunda Ch.Naik, s/o late Trilochan Naik
62. R.N.Mahanta, s/o Kinuram Mahanta
63. S.C.Majhi, s/o Parau Majhi
64. Pradipta Kumar Parida, s/o H.K.Parida
65. Anil Kumar Das, s/o Lingaraj Das
66. Prem Nath Mishra, s/o M.P. Mishra
67. K.R.Singh, s/o Jhaja Mishra
68. S.Majhi s/o late B.Majhi
69. Sri Pramath Kumar Jena, s/o late Raghunath Jena
70. B.N.Samal, s/o late B.B.Samal
71. B.Behera, s/o Chhachi Behera?
72. Muralidhar Mundhial, s/o Ghasiram Mundhial,
73. Dibakar Behera, s/o late Baidhara Behera
74. Ramdash Murmu, s/o Keshor Murmu
75. Somanath Madhaal, s/o Gobardhan Madhaal
76. T.Prasada Rao, s/o late T.Kanta Rao
77. Bhimsen Samal, s/o late Gokulananda Samal
78. Kshetramohan Nayak, s/o Gangadhar Nayak
79. Pamua Lal s/o late Moti
80. Hrusikesh Das s/o late Ananda Ch.Das
81. Sadananda Behera, s/o Sanatan Behera?
82. Produt Biswas s/o late P.Biswas
83. Baghray Soren, s/o Basta Ch.Soren
84. Sashi Bhusan Behera, s/o H.C.Behera
85. K.R.Tudu, s/o Debraj Tudu
86. Chaitanya Ch.Jena, s/o N.Jena
87. Jajati Kishore Mohanty, s/o S.N.Mohanty
88. Somanath Mishra, s/o B.D.Mishra
89. Akshaya Kumar Mulia, s/o late Lokanath Mulia

90. Jagannath Pradhan, s/o Anama Pradhan
91. Dusasan Behera, s/o Gopinath Behera
92. Hiramani Bage, w/o late Sridhar Singh Bage
93. Makurucharan Purty, s/o Kaina Purty
94. Gourahari Raut, s/o late Narendra Nath
95. Rama Chandra Nayak, s/o Khati Nayak
96. Malaya Kumar Jena, s/o Jagabandhu Jena
97. Bhaskar Ch.Rout, s/o Pranabandhu Rout
98. Surath Sethi, s/o Balunki Sethi
99. Tusar Kanti Das s/o late Ramesh Ch.Das
100. Braja Bihari Sahoo, s/o Baishnab Ch.Sahoo
101. Mohan Bindhani, s/o Rama Chandra Bindhani
102. Bishnu Mohan Das s/o late Hema Ch.Das
103. R.Krishna Mohan Patrain, s/o late R.S.Patrain
104. Narendra Majhi s/o late Gobind Ch.Majhi
105. Dhruba Charan Jena, s/o late Gayadhar Jena
106. V.Appalu s/o V.Ramaya
107. Ajaya Kumar Kar s/o S.C.Kar
108. A.K.Viswanadam, s/o late Jaganadham
109. Niranjana Acharya s/o Govinda Ch.Acharya
110. Ramesh Ch.Sahoo, s/o late Rupendranath Sahoo
111. Pravakar Sahoo s/o late Dolagobinda Sahoo
112. Jagadish Barik, s/o Mahendranath Barik
113. Satyabadi Diwbedi, s/o Managobinda Dwibedi
114. Pitambar S/o Nanda
115. H.C.Tudu s/o Phagla Tudu
116. Radheshyam Lenka s/o Nidhi Ram Lenka
117. Prafulla Kumar Behera s/o late Pruthunath Behera
118. M.Ram Narayan Rao s/o late Jankia Rao
119. B.Ramudo s/o v.Pappya
120. Niranjana Mohanty s/o Narendranath Mohanty
121. Sada Behera, s/o late Banabha Behera?
122. Chittaranjan Das s/o Pramath Kumar Das

- 123.S.D.Mallik s/o Kelu Mallik
- 124.Kalimuddin Khan s/o Ramjan Khan
- 125.Satyanarayan Lenka, s/o late M.D.Lenka
- 126.Mahendra Behera s/o late M.Behera
- 127.Lachhaman Parida s/o Kanhu Ch.Parida
- 128.Narasingh Rout s/o Sankar Rout
- 129.Saudagar Pradhan, s/o late Khetrabasi Pradhan
- 130.Sudhir Kumar Sen, s/o Kartik Ch.Sen
- 131.B.K.Baraja, s/o Muni Baraja

All the applicants are working under Chief Workshop Manager,  
Carriage Repair Workshop, S.E.Railway,

Mancheswar, Bhubaneswar       .....                      Applicants

By the Advocate        -        M/s D.P.Dhalsamant &  
M.Mohapatra.

Vrs.

1. Union of India, represented through the  
General Manager, South Eastern Railway,  
Garden Reach, Calcutta-48, West Bengal.
2. The Chief Workshop Manager, Carriage Repair Workshop,  
South Eastern Railway,  
At/PO-Mancheswar,  
Bhubaneswar.
3. The Personnel Officer,  
Carriage Repair Workshop,  
South Eastern Railway,  
At/PO-Mancheswar,  
Bhubaneswar Circle,  
Khurda                     .....                      Respondents.

By the Advocate        -        Mr.R.Ch.Rath.

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O R D E R

Somnath Som, Vice-Chairman

In this Application under Section 19 of Administrative Tribunals Act, 1985, 131 petitioners, who have been permitted to jointly file the Application, have come up with the prayer for an order to the respondents that deduction of a day's salary from the applicants is illegal, unfair, unjust and unreasonable, and also for a direction to the respondents to release one day's salary for the month of January, 1994.

2. The case of the applicants is that they are the staff of Lifting, Vacuum, Buffer and Draw Gear, S.A. and S.A.B. Shock Absorber and Bogie Repair Units of Mancheswar Carriage Repair Workshop Division of South Eastern Railway. According to the applicants, the cause of action for the application arose when one day's salary of the applicants was deducted from the pay for the month of January 1994 disbursed in February 1994 without giving any reason. It is further alleged that the pay slips given to the applicants on 10.2.1994 along with their salary for the month of January 1994 did not indicate for which day their salary has not been paid. It is further alleged by the applicants in paragraph 4.8 of the Application that their cases are similar to the applicants in O.A.No.723 of 1994 where similar relief has been allowed by a Division Bench in their order of 7th December,

1995 which has been confirmed, according to the applicants, by the Hon'ble Apex Court. Because of this, they have come up with the aforesaid prayers.

3. Respondents in their counter have pointed out that the applicants have intentionally suppressed material facts and on this ground, the application is liable to be dismissed. The case of the respondents is that on 31.12.1993 a group of staff in the Mancheswar Carriage Repair Workshop stopped work at 9.30 hours agitating against the misbehaviour and unruly behaviour of Officer-in-charge, R.P.F., Mancheswar. The complaint of the staff was that the R.P.F. personnel had misbehaved with Shri U.K.Sethi as they found some material kept in the tool box of Shri Sethi. Because of this, all the staff gathered together and demonstrated against the Officer-in-charge, R.P.F., Mancheswar, for his suspension or transfer. In spite of intervention of higher authorities including the Chief Workshop Manager, there was no improvement in the situation. The officers apprehended that similar stoppage of work might happen on the next day and therefore, a notice dated 31.12.1993 was issued to all employees, with copy to the recognised Unions, enjoining the employees for refraining from such activities. It was also indicated that in case such situation arises in future, the policy of "No



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Work No Pay" would be adopted, besides other penalties for such illegal stoppage of work. Copy of this notice issued on 31.12.1993 is at Annexure-R/1. Respondents state that in spite of the above notice, on 1.1.1994, most of the staff punched their G.A.Cards and signed the Attendance Register, but did not perform any duty. On 1.1.1994 itself, by another notice vide Annexure-R/2, the employees were informed and copies were sent to the Union that because of such unauthorised stoppage/absenting from duty on 1.1.1994, the policy of "No Work No Pay" has been adopted. Respondents have stated that as the applicants did not work on 1.1.1994, they are not entitled to any payment for that day.

4. I have heard the learned lawyer for the applicants and Shri R.Ch.Rath, the learned counsel appearing on behalf of the respondents, and have also perused the records.

5. Learned lawyer for the applicants made only one submission that this is a covered matter and similarly placed persons have been allowed one day's pay in O.A.No.723/94, O.A.No.3/95 and O.A.No.399 of 1994. Orders passed in the above O.As. have not been filed by the learned lawyer for the applicants, but I have looked into the records of those three O.As. O.A.No.723 of 1994 and O.A.No.3 of 1995 were disposed of in one common order dated 11.12.1995 by the Division Bench. O.A.No.399 of 1994 was disposed of on 19.3.1996 by another Division Bench with a direction that the relief granted in

O.A.No.723/94 and O.A.No.3/95, decided on 11.12.1995, covered the relief prayed for in that petition as well. Accordingly, the Division Bench held and ordered that the respondents could not have deducted the petitioners' salary for 1.1.1994 and the same shall be paid to the petitioners within four weeks from the date of receipt of copy of this order. From the above, it is seen that in O.A.No.399/94, the later Division Bench has merely followed the order passed on 11.12.1995 by the earlier Division Bench in O.A.No.723/94 and O.A.No.3/95. I have looked into this decision of the Division Bench and on consideration of the facts and pleadings on which this decision of the Division Bench has been rendered, the present Application can by no stretch of imagination be called as a covered case. In O.A.No.723 of 1994 pay of 39 applicants and in O.A.No.3/95 pay of 89 applicants was deducted for 1.1.1994 on the principle of "No Work No Pay". The applicants stated in these two O.As. that they had worked on 1.1.1994. The respondents in their counters denied this. In paragraph 15 (wrongly mentioned as paragraph 8 of the counter in O.A.No.723/94) of their counters, the respondents pointed out that out of 1522 employees, wages of 1339 have been deducted for 1.1.1994 and rest 183 employees have been paid their wages because of various reasons. Fifty-eight out of them were on sanctioned leave, thirty-four persons were performing shift

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duty, sixteen employees were embodied in Territorial Army and were at Territorial Army Camp at Adra, thirty-seven employees were earlier booked for duty out of Mancheswar, one person was on Hospital leave, and thirty-seven employees performed essential service. The question fell for consideration before the Division Bench was whether the applicants in those two O.As. did work as claimed by them or went on strike, as claimed by the respondents. The Division Bench decided in favour of the applicants in those two cases going by a certificate which was at Annexure-2 of the Rejoinder filed in O.A.No.723/94 stating that fifty-two employees of M.T.Shop did work on 1.1.1994. At Annexure-3 to the Rejoinder was another certificate dated 8.1.1994 that staff of M.T.Shop had done their normal duty on 1.1.1994. It appears from paragraph 5 of the order dated 11.12.1995 that going by these contemporaneous certificates, the Tribunal held that the applicants in those two O.As. had performed their work on 1.1.1994. In the present case, the applicants belong to certain other units as mentioned earlier and no such certificate from the immediate superior authority that they had worked on that day has been filed. Therefore, there is not a scrap of evidence that these 131 applicants did work on 1.1.1994. Facts being different in case of these applicants, this case cannot be taken to be a covered case in terms of the order dated 11.12.1995 passed in O.A.No.723/94 and O.A.No.3/95. Moreover, the applicants have deliberately

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suppressed facts with regard to strike, if not by them, by some other employees and the notice issued to them on 31.12.1993. As against this, the respondents have filed a copy of the notice issued by them on 31.12.1993 and also another notice issued by them on 1.1.1994, in both of which they have clearly stated that for those who had not worked the principle of "No Work No Pay" would be adopted. In consideration of the above, I hold that this is not a case which is covered by the decision dated 11.12.1995 in O.A.No.723/94 and O.A.No.3/95. I also hold that the applicants have not been able to make out a case for payment of their salary for 1.1.1994.

6. In the result, therefore, the application is held to be without any merit and is rejected but, under the circumstances, without any order as to costs.

  
(SOMNATH SOM)

VICE-CHAIRMAN 2.2.98

AN/PS