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O.A.NO. 748 OF 1996.

ORDER DATED 16-04-2001.

This Original Application has been posted today for peremptory hearing. The applicant who is appearing in person is absent on call. There is also no request for adjournment from him. As in this Original Application, pleadings have been completed long ago, we have heard Shri B.Pal, learned Senior Counsel appearing for the Respondents and perused the records. Shri Pal, Learned Sr. Counsel, has filed alongwith a memo two decisions of the Honourable Supreme Court and decision of the Tribunal in earlier Original Application No.560/1996 disposed of by this Bench on 16-11-1998. In this Original Application, the applicant has made the following prayer which is quoted below:

> " After hearing the parties and perusal of the records the Respondents be directed for enforcement of official memorandum dated 2.3.65, 25.12.1971, 8. 1.1978, 25.6.1980 and 5.10.1981 and direction of Hon'ble Supreme Court by identifying a suitable job for the applicant in terms of the principle laid down in para-394 of the judgment dated 16-11-1992 in the Mandal Commission case in W.P.(C)Nos.1081/90 and 111/92 of the Hon'ble Supreme Court as well as in terms of order dated 17.8.1987 and 24.7.1989 in C.A.No.1749/87 and order dated 12.8.91 in W.P.(C) Nos.536,734 of 1990, 237 of 1991, as a rehabilitation assistance to cured Leprosy persons".

2. Respondents are (1) Secretary, Ministry of Welfare; (2) Chief Personnel Officer(Administration) South Eastern Railway, Garden Reach, Calcutta and (3) Chairman, Railway Recruitment Board, Bhubaneswar. Respondents have filed their counter opposing the prayer of applicant and applicant has filed rejoinder. We have perused the same.

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3. For the purpose of considering this Original Application, it is not necessary to refer to all the averments made by the parties in their voluminess pleadings. It is only necessary to state that the applicant claims to be a cured Leprosy patient and he wants his case to be considered for appointment by way of rehabilitation assistance in terms of Circular dated 2-3-1965 at Annexure-1 and certain other orders referred to in the prayer portion of the petition. Learned Senior Counsel for the Respondents has brought to our notice that an identical matter in O.A. No.560/1996 which has been disposed of by this Bench in their order dated 16-11-1998. We have, therefore, called for the records of O.A.No.560/1996 and gone through the same, and we find that the prayer in Original Application No.560/96 is identical to the prayer made in this Original Application and the Respondents in Original Application No.560 of 1996 are the very same authorities who have been arraigned as Respondents in this Original Application. The grounds urged in support of the prayer in this Original Application are the same grounds urged in Original Application No.560/1996 and the Respondents have also opposed the prayer on the same grounds. In our order dated 16-11-1998, we have held that the purported circular dated 2-3-1965 at Annexure-1 to that O.A. which is also at Annexure-1 in this O.A. is not in existence and on other grounds elaborately discussed in our order dated 16-11-1998, we had held that O.A.No.560/96 is

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without any merit and the same was rejected.

4. In the present case, the applicant has come up with the same prayer and with the same grounds and therefore,we see no reason to differ from our findings arrived at in O.A. No.560/96. In view of this, we hold that this Original Application is without any merit and the same is rejected.

5. There is also one more ground which was not raised in Original Application No.560/96 on which the Original Application has to be rejected. The applicant wants a direction to be issued to the Respondents to give him appointment by way of rehabilitation assistance on the ground of his being a cured Leprosy patient. Respondent No.1 is stationed at Delhi and Respondent No.2 is stationed at Calcutta. Therefore, with regard to Res. Nos.1 and 2 cause of action must be deemed to have been arisen outside the territorial jurisdiction of this Bench of the Tribunal. The applicant, is no doubt a resident of Orissa but in terms of Rule-6 of CAT(Procedure) Rules, 1987, he has to file the case where the cause of action either wholly or in part has arisen. Sub rule (2) of Rule-6 which bears an exception to the above general Rule does not also cover the case of applicant so far as these two Respondents are concerned. Therefore, this Original Application is also rejected on the ground of not being maintainable against Respondents 1 and 2.

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6. As regards Respondent No.3, he is the Chairman, Railway Recruitment Board, Bhubaneswar. In a separate counter filed by the Respondent No.3, it has been submitted by him that he is not a proper or necessary party in this O.A. and the scope of the activity of Respondent No.3 has nothing to do with the prayer made by the Applicant in this O.A. It is submitted and to our mind, rightly by the Respondent No.3 that he can take up Recruitment Procedure only when a matter is referred to him by the Competent Authority/proposed employer in the Railway Administration. Applicanthas not made any averment that Respondent No.3 has while dealing with the cases of appointment to any post, declined to consider the prayer of applicant or that the applicant did make a prayer to the Respondent No.3 to consider him as preferential category. In view of this, we hold that Respondent No.3 is also not a proper and necessary party to this O.A. and the O.A. is also accordingly held to be not maintainable against the Respondent No.3.

7. In view of our discussions made above, we hold that the application is without any merit besides not being maintainable and the same is accordingly rejected but without any order as to costs.

8. We have also heard the learned Senior Counsel appearing for the Respondents Mr.B.Pal on the application filed by him u/s.340 CRPC to initiate proceedings against the applicant for sanction of prosecution u/s.193 IPC. In view

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of the fact that we have rejected the Original Application, we do not think this is a fit case for taking further action on the Misc. Application filed for this purpose by the learned Senior Counsel for the Respondents. In view of this M.A. filed for this purpose is rejected.

(G. NARASIMHAM)
MEMBER(JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.