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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O. A. No. 86 OF 1996

Cuttack this the 22nd day of March ,1996.

SURENDRANATH MOHANTY AND OTHERS.

....

APPLICANTS

-VERSUS-

UNION OF INDIA AND OTHERS.

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RESPONDENTS

FOR INSTRUCTIONS

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

  
( H. RAJENDRA PRASAD )  
MEMBER (ADMINISTRATIVE)

15 FEB 96

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No.86 of 1996

Cuttack this the 22nd day of March 1996

CORAM:

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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1. Shri Surendranath Mohanty,  
Sorting Assistant, H.S.G. II,  
H.R.O., R.M.S. 'N' Division,  
Cuttack.
2. Shri Nrusingha Ch. Mishra,  
Sorting Assistant, H.S.G. II,  
H.R.O. R.M.S. 'N' Division,  
Cuttack.
3. Shri Subal Ch. Mallik,  
Sorting Assistant, H.S.G. II,  
H.R.O. R.M.S. 'N' Division,  
Cuttack.
4. Chandramani Jena, 47 years,  
Sorting Assistant, H.S.G. II,  
S.R.O. R.M.S. 'N' Division,  
District Balasore.
5. Bhpatri Charan Das,  
S/o. Late Bankim Chandra Das,  
HSG-II, Sorting Assistant,  
Railway Mail Service, Balasore.
6. Shri Binay Kumar Pal, 57 years,  
son of late Sudhansu Sekhar pal,  
Higher Selection Grade-II retired,  
Sorting Assistant Head Record Office,  
RMS 'N' Division, Cuttack-I.
7. Budadev Mallik,  
son of late Narendra Nath Mallik,  
of village; Kanpur, Po: Bagalasahi,  
Via-Niali, Dist. Cuttack at present  
serving C/o. S.R.O, Bhubaneswar RMS,  
O/o. PMG, Orissa, 5th floor, Bhubaneswar.

8. Shri Gadadhar Satpathy,  
son of late Narayan Satpathy  
Village:Kurali,PS.Sadar,  
Dist. Cuttack.
9. Purna Chandra Naik,aged about 52 years,  
son of late Guru Charan Naik,  
Sorting Assistant,H.S.G II,  
S.R.O.,Baripada,Sorting Assistant,  
P.O. Baripada,Dist. Mayurbhanja.
10. Banamali Behera,aged about 47 years,  
Son of Narasingha Behera,  
Sorting Assistant , H.S.G. II,  
S.R.O.,R.M.S. 'N' Division,  
District-Puri-2.
11. Kamal Kumar Mishra,aged about 52 years,  
Son of Laxmikanta Mishra,  
Sorting Assistant, H.S.G. II,  
office of S.S.R.M. 'N' Division,  
Cuttack.
12. Jagdish Chandra Tripathy,aged about 51 years,  
Son of late Ganeswar Tripathy,  
Sorting Assistant,H.S.G.-II,  
Head Record Officer,  
R.M.S.'N' Division,  
Cuttack-I.
13. Rangadhar Rath,aged about 53 years,  
Son of late Ram Chandra Rath,  
Sorting Assistant, H.S.G. II,  
Sub Record Office, R.M.S. N Division,  
Bhubaneswar,Dist.Khurda.
14. Gadadhar Parida,aged about 53 years,  
Son of  
Sorting Assistant, H.S.G. II,  
Sub Record Office, R.M.S. 'N' Division,  
Bhubaneswar,Dist.Khurda.
15. Shri Sudarsan Acharya,Son of late Sauti Acharya ,  
H.S.G.-II,Sorting Assistant,S.R.O.,Bhubaneswar.

..... APPLICANTS

By the Applicants : M/s. G.K. Misra, G.N. Misra, A.K. Pati,  
S. Behera, Advocates.

-VERSUS-

- 1) Union of India represented through  
Director General of Posts,  
Dak Bhavan, New Delhi.
  - 2) Chief Postmaster General,  
Orissa Circle, Bhubaneswar,  
Dist. Khurda.
  - 3) Director of Postal Services (Hqrs.)  
Office of CPMG, Bhubaneswar, Dist. Khurda.
  - 4) Sr. Superintendent of Railway Mails,  
RMS 'N' Division, Cuttack.
- ..... RESPONDENTS

By the Respondents : Mr. Ashok Mohanty, Senior Standing  
Counsel (Central).

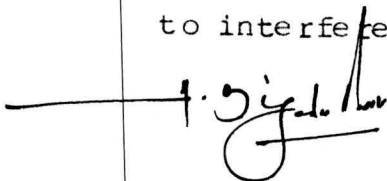
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O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE) :

Heard Shri G.K. Mishra for the applicant and Shri Ashok Mohanty, learned Senior Standing Counsel, for the Respondents.

2. Para-1, Annexure-2 to the Original Application, which is the impugned order in this case, is seen to have been issued in compliance of the judgment dated 16.5.1995 in O.A. No. 34/94. Whatever be the ground urged in this case, it shall be premature and unwarranted to interfere with it at this stage. The prayer of the



applicant to quash it cannot, therefore, be agreed to. The applicant shall have to respond to it, fully and appropriately. He is free to urge, in any form, <sup>any</sup> or all of the grounds contained in this Original Application, as well as the earlier Original Application filed by him.

3. The time for filing the show cause is hereby extended for thirty days from today.

4. The Respondents shall have to give careful consideration to every point urged by the applicant in the show cause and suitably cover those points in any order that may be eventually passed by them.


5. The Respondents shall also be well-advised to take note of the fact that, where an over payment is the result of any administrative error or miscalculation on the part of the authorities, and where amounts have thereby been disbursed a long time ago, it shall not be open or correct for them to rectify such error at a belated stage, or/and to seek to recover the amounts so overpaid by their own mistake, after a long lapse of time. This is the settled position of law, and courts, including the Tribunal, have held any such attempted action(s) incorrect and impermissible.



6. Additionally, it shall be necessary to reiterate that any decision to be taken by the Respondents shall have to be based wholly on full facts of the case, and not merely based on an Audit Observation/ Objection. In other words, any decision by the Respondents, in this case shall, of necessity, have to be -

- i) judicious and fair in the fullest measure;
- ii) taken after full scrutiny of all facts and circumstances as averred by the applicant and with reference to records;
- iii) the result of a proper application of mind;
- iv) in consonance with the observations contained in the judgment dated 16.5.1995 in OA 34/94.
- v) taken in the light of the legal position referred to in para 4 above.

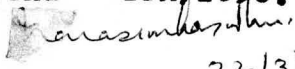
7. Thus, the O.A. is disposed of at the stage of admission. No costs.

  
( H. RAJENDRA PRASAD )  
MEMBER ( ADMINISTRATIVE )

15 FEB 96

KN Mohanty.

As authorised by Hon'ble Vice-Chairman on 19.3.96 , order is pronounced in open court on this day of 22nd March, 1996.

  
22/3/96  
( N. SAHU )  
MEMBER ( ADMINISTRATIVE )