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O.A.911/96Order dated 15.10.2001

Shri H.P.Rath, learned counsel for the petitioners is absent. Heard Shri S.S.Mohanty, learned special counsel and Shri U.B.Mohapatra, learned Addl.Standing Counsel on behalf of Res.1.

In this O.A. the petitioners have prayed for quashing the orders at Annexures-3 and 5. Annexure is a draft seniority list circulated in order dated 17.4.1996 and Annexure-5 is an order dated 26.7.1996, finalising the seniority list of U.D.Cs. Their second prayer is for direction to departmental respondents to maintain the seniority of the applicants vis-a-vis Res.5 and 7, as published vide Annexure-1, which is dated 8.6.1989. They have also prayed for a declaration that they are senior to Res. 5 and 7 in the cadre of UDCs and have prayed for refixing seniority in the U.D.C. cadre. Hearing in the matter was closed and the matter was reserved for orders. Learned special counsel Shri S.S. Mohanty has filed a Memo, enclosing thereto a copy of order dated 23.5.2001 of the Addl.Central Provident Fund Commissioner, a copy of judgment of the Full Bench of the Tribunal in the case of Md. Nazimuddin vs.Regional Provident Fund Commissioner and copies of other cases and order dated 18.8.1993 of the Hon'ble Supreme Court, rejecting the S.L.P., copies of which have been served on the learned counsel for the petitioners. It is submitted by Shri Mohanty that in view of decision of the Full Bench of the Tribunal being confirmed by the Hon'ble Supreme Court, the Addl.Central Provident Fund Commissioner, New Delhi has issued direction in letter dated 23.5.2001 to prepare fresh seniority lists of different categories of staffs including the UDCs in terms of law as laid down in the above said decision. In the instant case the prayer of the applicants for refixing their seniority in the cadre of U.D.C.s and since the seniority list of UDCs is going to be drawn up once again, it is submitted by Shri Mohanty that this O.A. has become infructuous. Learned counsel for the petitioners wanted time till to-day to go through the decision and make submission. But to-day he is not present nor has there been any request on his behalf.

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made seeking an adjournment. As we have noted earlier, the prayer in this O.A. is for refixation of seniority of the five applicants in the cadre of U.D.Cs and as orders have been issued by the departmental authorities to refix their seniority of the UDCs in terms of law laid down in the aforesaid mentioned decision, we hold that the present O.A. has become infructuous and accordingly we dispose of this O.A. for having become infructuous, leaving liberty to the applicants to approach the Tribunal in case they have any grievance with regard to seniority after the fresh seniority list was published, as ordered by the Addl. Provident Fund Commission in letter dated 23.5.2001. No costs.

Venkatesh Varma  
VICE-CHAIRMAN

MEMBER (JUDICIAL)

Free copy of

the Order

dt. 15.10.01 given  
to the both counsel,

sk

18/10/01

A. J. 110  
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