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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 398 OF 1999
Cuttack, this the 7th day of November, 2000

Suresh Chandra Sahoo 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*.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
11/12/00

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 393 OF 1999
Cuttack, this the 7th day of November, 2000

CORAM:

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

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1. Suresh Chandra Sahoo, aged about 31 years, son of K.B.Sahoo, At-Jenadeipur Haripur, P.O-Sukinda, District-Jajpur.
2. Sarat Kumar Mohanty, aged about 32 years, son of N.Mohanty, At-Nuagaon, P.O-Mamouza, Dist.Kendrapara-754 231.
3. Dharmananda Swain, aged about 31 years, son of R.C.Swain, At-AIG-66 New Housing Board Colony, At/PO-Charbatia, District-Cuttack.
4. Rajat Kumar Mohanty, aged about 30 years, son of B.C.Mohanty, At/PO-Dendasinghpur, District-Jagatsinghpur.
5. Satyanarayan Pattnaik, aged about 29 years, son of Balaram Swain, At-Milapalli, P.O-Kaulasar, Via-Rajsunakhalla, Dist.Nayagarh.
6. Chittaranjan Nayak, aged about 30 years, son of Laxmidhar Nayak, At/PO-Renapalo, Dist.Puri.
7. Duryodhan Pradhan, aged about 30 years, son of Nakul Pradhan, At-Kujmahal, P.O-Chandaka, District-Khurda.
8. Subhransu Sekhar Mohanty, aged about 30 years, son of H.K.Mohanty, At/PO-Begalpur, Via-Anakhia, Dist.Jagatsinghpur.
9. Nishakar Samal, aged about 31 years, son of Jayadev Samal, At/PO-Gholapur, Via-Athagarh, Dist.Cuttack.
10. Ranjit Kishore Mohanty, aged about 30 years, son of B.C.Mohanty, At-Dendasinghpur, District-Jagatsinghpur.
11. Ashok Kumar Mohanty, aged about 29 years, son of N.K.Mohanty, At-Qr.No.E/195, IRC Village, Nayapalli, Bhubaneswar, District-Khurda.
12. Rabindra Kumar Palei, aged about 32 years, son of D.Palei, At-Dekudi, P.O/Via-Brahmagiri, District-Puri.
13. Biswa Ranjan Mishra, aged about 32 years, son of P.Mishra, At/PO-Kantilo, Dist.Nayagarh

14. Balaram Parichha, aged about 30 years, son of N.Parichha, Vill/PO-Mandar, Via-Ballipadar, Dist.Ganjam.
15. Pravakar Patro, aged about 33 years, son of R.N.Patro, At-Belapada, P.S-Saura, Surachhachina, Via-Beguniapada, Dist.Ganjam.
16. Sk.Shaikh Ahad, aged about 30 years, son of Sahadulla, At-Fakirsahi,P.O-Suhagpur, Nayahat, Dist.Puri.
17. Khirod Kumar Sahoo,aged about 30 years, son of late Rath Sahoo,At/PO-benipur, District-Kendrapara.
18. Manash Ranjan Swain,aged about 29 years, son of N.N.Swain, At-Dinuda, P.O-Ganeswarpur, Via-Gop, Dist.Puri.
19. Bibhu Prasad Mishra, aged about 31 years, son of N.B.Mishra, At/PO-Chatarachhada, Via-Derasahi, Dist.Kendrapara.
20. Bishnu Mohan Sahoo,aged about 30 years, son of Jagabandhu Sahoo, At/PO-Motto, Dist.Bhadrak.
21. Prasanta Kumar Mohanty,aged about 32 years, son of P.C.Mohanty, At/PO-Jajpur Road (Near B.N.College), Dist.Jajpur.
22. Sisir Kumar Behera,aged about 30 years, son of J.N.Behlera, At-Gopalpur, P.O-Damangadia, Via-Baramba, Dist.Khurda.
23. Ambika Prasad Panda, aged about 30 years, son of M.N.Panda, At-Bastapada, P.O-Arilo, Via-Sonepur, Dist.Cuttack.
24. Samarendra Kumar Mohapatra,aged about 32 years, son of M.k.Mohapatra, At-Dhaniapada, P.O-batira, Via-Rahama, Dist.Kendrapara.
25. Bidyadhar Rout,aged about 29 years, son of R.C.Rout, At/PO-Rariola, Khasada, Dist.Cuttack.
26. Saubhagya Kumar Swain,aged about 31 years, son of Bhagaban Swain, At/PO-Ahiyas, District-Jajpur.
27. Ashok Kumar Mallik, aged about 33 years, son of Sadhu Charan Mallik, At/PO-Balipatna, District-Kendrapara

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Applicants

Advocate for applicants-Mr.S.C.Samantray

Vrs.

1. Union of India, represented through its General Manager, South Eastern Railway, Garden Reach, Calcutta-43.
2. Chief personnel Officer, South Eastern Railway, Garden Reach, Calcutta.
3. Divisional Railway Manager, South Eastern Railway, Khurda Road, District-Khurda.
4. Senior Divisional Mechanical Engineer, South Eastern Railway, Khurda Road, District-Khurda

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Respondents

Advocate for respondents-Mr.S.R.Patnaik

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O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application 27 petitioners have prayed for a direction to the respondents to correctly fix the joining date of the applicants. The second prayer is for a direction to promote them to the post of Goods Driver from the date they became eligible with consequential benefits, and the third prayer is for a direction to give them further promotion to the post of Senior Goods Driver if they are eligible. The respondents have filed counter opposing the prayers of the applicants, and the applicants have filed rejoinder. For the purpose of considering this petition, it is not necessary to record all the averments made by the parties in their pleadings because the dispute in this case falls within a small compass.

2. The applicants' case is that in response to an advertisement by the Railway Recruitment Board they applied and were selected for the post of Assistant Driver in the pre-revised scale of pay of Rs.950-1500/-, now revised to Rs.3050-4590/-. The different applicants joined as Assistant Driver in Chakradharpur, Sambalpur and Waltair Divisions as per details given in the OA. They all joined these Divisions in 1994. The applicants have stated that as their services were required at Khurda Road Division, they were brought over to Khurda Road Division and have been continuing as such.

3. It is the admitted position that Assistant Drivers and Senior Assistant Drivers are eligible to be promoted directly to the post of Goods Driver in the pay scale of Rs.5000-8000/-, with minimum two years of service for direct recruit D.D.As, i.e., Assistant Drivers and six years

for promotee D.D.As. It is also the admitted position that for such promotion 60000 KMsfoot plate experience is required and it is also the admitted position that the applicants have acquired the experience. On the basis of these two qualifications the applicants have come up in this petition with the prayer for promotion to the post of Goods Driver.

4. The respondents have stated that besides the above two requirements, there are three other requirements for promotion to the post of Goods Driver, namely, (i) seniority position as per the seniority list; (ii) passing promotional and conversional course training for four months at S.T.C., Kharagpur; and (iii) clearance of the tests for selection as Goods Driver. The respondents have stated that the applicants did not have the eligibility on these three counts. They have also stated that none of the juniors of the applicants as per the gradation list at Annexure-R/1 has been promoted and therefore they have opposed the prayers of the applicants.

5. We have heard Shri S.C.Samantray, the learned counsel for the petitioners and Shri S.R.Patnaik, the learned panel counsel for the respondents and have also perused the records. During hearing the learned counsel for the petitioners submitted that he does not press the first prayer of the O.A. and therefore it is not being considered.

6. From the above recital of facts it is clear that the point of controversy in this case is whether the applicants are eligible to be considered for promotion to the post of Goods Driver. The respondents have stated that the applicants do not have the eligibility in respect of three criteria recorded by us earlier. These are discussed below. It has been submitted by the respondents that the promotion has to

be given according to seniority and none of the persons junior to the applicants has been so far promoted to the post of Goods Guard. The respondents themselves have mentioned in page 2 of the counter that direct recruit D.D.As. with two years experience and departmental promotee D.D.As. with six years experience can be promoted as Goods Driver. This clearly shows that direct recruit D.D.As. with two years of service having all other eligibilities are entitled to be considered for promotion even over their senior promotee DDAs who have not completed six years of service. In view of this, it cannot be held that promotion from the post of DDA to Goods Driver has to be strictly on the basis of combined seniority list of direct recruit D.D.As and promotee D.D.As. If this is accepted, then the condition of two years service requirement for direct recruit D.D.As. loses all its significance because by the time a direct recruit D.D.A. has completed two years service, there can be several promotee D.D.As. above him who have not completed six years of service as D.D.A. and if in such a case the direct recruit D.D.A. is promoted after his senior promotee D.D.As. are promoted as Goods Driver, then by that time he would have also completed six years of service. From this it is clear that the combined seniority cannot be taken into account for considering promotion of direct recruit D.D.As. and promotee D.D.As. to the rank of Goods Driver.

7. The second criterion is that before such promotion a candidate must have passed promotional and conversational course training for four months at S.T.C., Kharagpur. It is the admitted position that this requirement has to be met. The grievance of the petitioners is that they are not being sent for this training even though they have completed two years of service and thereby they are being

deliberately discriminated against. Here also if on the basis of combined seniority list of promotee and direct recruit D.D.As the persons are sent for training, then the direct recruit D.D.As. will be effectively denied the benefit of being considered for promotion to the post of Goods Driver after completion of two years of service. In considerastion of this, the respondents are directed that while deputing D.D.As. for this training they should depute promotee and direct recruit D.D.As. who have completed the requisite length of service period of six years and two years respectively.

8. The applicants have stated that even for this training the persons are being deputed on the basis of their seniority in the combined seniority list and even though they have completed two years of service, they have not been given facility to pass that training course. As this training course is a requisite condition for considerion for promotion to the post of Goods Driver, the applicant's prayer that they should be promoted as Goods Driver from the date they have completed two years of service as direct recruit D.D.A. is held to be without any merit. While rejecting this prayer, we direct the departmental authorities to depute direct recruit and promotee D.D.As. in the manner indicated by us. We also direct that all those direct recruit D.D.As. who have completed requisite period of two years of service and 60 000 K.M. foot plate experience should be deputed for training subject to availability of seats in the next course. We make it clear that such of the direct recruit D.D.As. who pass this course of training have to go through the selection procedure for being appointed as Goods Driver.

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9. The third prayer is for a direction to the respondents to promote them to the post of Senior Goods Driver. Post of Senior Goods Driver, as has been mentioned by the respondents, is filled up by way of promotion from the post of Goods Driver. As the applicants have not been promoted to the rank of Goods Driver, they cannot claim promotion to the rank of Senior Goods Driver merely because of their long length of service in the rank of direct recruit D.D.As. This prayer is accordingly rejected.

10. In the result, therefore, the Original Application is disposed of in terms of the observation and direction above but without any order as to costs.

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(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
7.11.2000
VICE-CHAIRMAN

September 7, 2000/AN/PS