

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH:CUTTACK.

ORIGINAL APPLICATION No. 415 OF 1999  
Cuttack, this the 2<sup>nd</sup> day of March, 2005

South Eastern Railway Mens Union & Ors. ... Applicants.

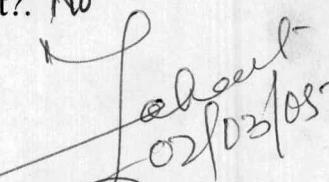
-VERSUS-

Union of India & Others. ... Respondents.

FOR INSTRUCTIONS.

1. WHETHER it be referred to the Reorters or not? *Yes*
2. WHETHER it be circulated to allthe Benches of the Central Administrative Tribunal or not? *No*

  
(B.N. SOM)  
VICE-CHAIRMAN

  
J. Mohanty  
02/03/05  
(M.R. MOHANTY)  
JUDICIAL MEMBER

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C O R A M:-

THE HON'BLE MR.B.N.SOM, VICE-CHAIRMN  
A N D  
THE HON'BLE MR.M.R.MOAHNTY, JUDL.MEMBER

1. South Eastern Railway Mens Union,represented through its Divisional Co-ordinator,Shri Bhagyadhar Jena,Sambalpur Division,Sambalpur.
2. Sri Dilipa Kumar Mishra,aged about 36 years, S/o.Sri R.N. Mishra,presently working as LR-SM/RGL Office of the Rengali Rly Station,AT/PO- Rengali.
3. Sri A.K.Sit,aged about 51 years,S/o.Sri B.C.Sit, presently working as JE/Tele/I office of S.E.Rly, DRM Building Modipara.
4. Sri Manoj Kumar Hota,aged about 35 years, S/o. Sri S.S.Hota,presently working as Sr.Clerk Office of Sr.DTM/SBP,S.E.Rly.
5. Sri S.K.Barik,aged about 36 years, S/o.Sri Rath Barik presently working as Gr.I Office of MS(Y)/SBP,S.E.Rly.
6. Sri.H.Mohan Rao, aged about 37 years, S/o.Late Narasimhulu,presently working as Sr. Clerk,Office of DPO/SEP,S.E.Railway.
7. Sri Mahesh Kumar Rao,aged about 30 years, S/o. Sri A.Narayan Rao, presently working as JR.Clerk, Office of DSTE/SBP.

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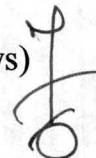
8. Sri M.N.Dora, aged about 28 years, S/o. Sri M.R.M.  
Dora, presently working as Sr. Clerk Office of  
DPO/SBP. .... APPLICANTS.

By legal practitioner:-M/s.A.Kanungo,  
S.R.Mishra  
B.Ray  
M.K.Biswal.  
Advocates.

-VERSUS-

1. Union of India represented through General Manager  
South Eastern Railway, Garden Reach, Calcutta.
2. Chief Personnel officer, S.E.Railway, Garden Reach  
Calcutta.
3. Divisional Railway Manager, S.E.Railway,  
Sambalpur.
4. Divisional Personnel Officer, S.E.Railway,  
Sambalpur. .... RESPONDENTS.

By legal practitioner:-M/s. D.N.Mishra,  
S.K.Panda,  
A.S.C(Railways)



**MR. MANORANJAN MOHANTY, JUDICIAL MEMBMER:-**

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, the Applicants (eight in number) working who are working, indifferent capacities in the Sambalpur Railways Division of the South Eastern Railways (now in East Coast Railways) Sambalpur Division have sought for the following reliefs:-

“(A) Direction and/or directions be issued to structure the cadre of every categories in the different department according to the prescribed percentage of up-gradations and publish the revised cadre;

And

(B) direction and/or directions be issued to fill-up all the higher grade vacancies in the revised cadre from amongst the eligible employees of the cadre of sambalpur division”.

2. This matter came up for admission before this Tribunal on 23.08.1999. While directing issuance of the notice to the Respondents by way of interim relief, it was directed that the representation dated 06.01.1999, addressed to Respondent No.4 should be disposed of (if the same is still pending) and decision thereon to be communicated to representationists. The Respondents, as it appears from Annexure R/l dated 28.08.1999, have disposed of



the said representation with a reasoned order, in compliance of the interim order of this Tribunal as aforesaid.

3. To bring the matter to the judicial scrutiny by the Tribunal it would be worthwhile to mention that none of the Applicants as averred in the O.A. can be said to be aggrieved by any order or any inaction of the Respondents Department. The first prayer made by the Applicants to direct the Respondents to structure the cadre of every categories in the different department according to the prescribed percentage of up-gradation and publish the revised cadre <sup>if so</sup> ~~if so~~ facto, tantamounts to approaching the Tribunal in shape of public interest litigation; because the Applicants have not specifically and categorically made any averments with regard to their status (prior to coming to the newly carved out Sambalpur Division) and by what action of the Department, they are aggrieved and as to how (in the event directions, as has been prayed in the O.A., are issued) their grievances will be redressed. The second prayer to direct the Respondents to fill up all the higher grade of the vacancies in the revised cadre from amongst the eligible employees of the cadre of Sambalpur Division is vague and unspecific; because the Tribunal by no stretch of imagination can issue such a blanket direction . Apart from the above, which posts in the department are to be upgraded and how the posts are to be filled up are the

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policy decision of the government and no court can interfere in the said decision making process of the Government.

4. However, it is the specific case of the Respondents in their counter, that the new Sambalpur Division was formed by taking some sections from Chakradharpur Divison and Waltair Division of South Eastern Railway and, latter on, in the month of August,1998, 154 kilometers of Sambalpur-Talcher Rail Link was inducted in the said new Sambalpur Division; that the cadre of Sambalpur division has been formed by taking the posts transferred from Chakradharpur and Waltair divisions and also from Headquarters; that the Waltair division had transferred the <sup>forty six</sup> <sub>new</sub> division after restructuring the posts as per Estt.Sr.No.13/93,since the said action (of transfer of posts) was started after 01.03.1993;the Chakradharpur division had transferred the posts to the new division prior to 01.03.1993 without restructuring of the posts, for which the new division had already been restructured those posts as per Estt.Sr.No.13/93. It is the specific case of the Respondents that posts transferred from Waltair (which were already restructured by the concerned division) and from Chaakradharpur (which were subjected to re-structuring,innew Sambalpur Division) were amalgamated, along with the posts

transferred from Headquarters, and a separate cadre of Sambalpur Railways Division was formed with effect from 01.04.1997 and that since there was no separate independent cadre of Sambalpur division as on 01.03.1993 and the separate independent cadre of Sambalpur division was formed only w.e.f. 01.04.1997 (by taking all the restructured posts as per Estt.Sl. No.13/93) further restructuring of the same posts/cadre are not permissible under the existing rules; as para 1 of Estt.Sl.no.13/93 under Annexure-7 of the O.A clearly provides that restructuring of cadre has to be done with reference to the sanctioned cadre strength as on 1.3.1993. It is also the case of the Respondents that since the posts transferred from Waltair and Chakradharpur divisions are not in accordance with the percentage as prescribed in Estt.Srl.NO.13/93 (the percentage is more in lower grade posts and less in higher grade posts) the Railway Administration has been endeavouring to get higher grade posts to Sambalpur Division (from Waltair and Chakradharpur; from where the new Division was carved out) and that transfer of higher grade posts from Chakradharpur Division has already been started and that it is expected that the other Division and Head quarters may do similar process in due course. It also reveals from the order (disposing of the representation of the Applicant) under Annexure-R/1 dated 28.08.1999 that the Authorities/Respondents are in the

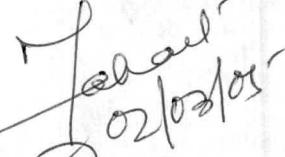
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process of obtaining necessary orders in the matter of restructuring in proportion to percentage in the higher cadre, having regard to the agreement made by the Union and the Administration.

5. Having regard to the aforesaid admission of the Respondents, we leave this matter to the Railway Administration to do well with the matter expeditiously/ within a reasonable period of time; which, in our considered view , would meet the ends of justice (with regard to the grievance of the Applicants, as raised in this Original Application) and in the result this case is accordingly, disposed of with the observations and directions as made above. No costs.

  
(B.N. SOM)  
VICE-CHAIRMAN

  
(M.R. MOHANTY)  
MEMBER(JUDICIAL)