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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 477 OF 1999
Cuttack this the 5th day of January/2004

P.S.V. Prasad & Ors. ...

Applicant(s)

VERSUS

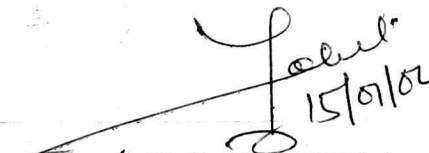
Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *As*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *As*


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)
15/01/04

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 477 OF 1999
Cuttack this the 15th day of January/2004

CORAM:

THE HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

- ...
1. P.S.V.Prasad, aged about 32 years,
S/o.Shri P.S.N.Murthy
 2. Sanyasi Bisoyi, aged about 34 years,
S/o.Brundaban Bisoyi
 3. Satrughana Nayak, aged about 31 years,
S/o. B. Nayak
 4. K.Kameswar Rao, aged about 32 years,
S/o.K.L.Narayana
 5. S.Papa Rao, aged about 34 years,
S/o. Appala Swamy
 6. Laxmi Narayana Rout, aged about 32 years,
S/o. S.Rout
 7. Bhagaban Jena, aged about 33 years,
S/o. Nakula Jena
 8. S.Satyanarayana, aged about 34 years,
S/o. Samba Murthy
 9. Bharat Chandra Barik, aged about 32 years,
S/o. Kanduri Barik

All are working as a Driver in the South Eastern
Railway, At/PO-Chandrasekharapur, Dist-Khurda

... Applicants

By the Advocates

M/s.D.R.Patnaik
M.K.Das
M.K.Khuntia

- VERSUS-
1. Union of India represented by its General Manager,
South Eastern Railway, Garden Reach, Calcutta
 2. Chief Personal Officer, S.E.Railway, Garden Reach,
Calcutta
 3. Chief Administrative Officer(Construction) S.E.Railway
Chandrasekharapur, Bhubaneswar, Dist-Khurda
 4. Chief Engineer (Construction) S.E.Railway,
Chandrasekharapur, Bhubaneswar, Dist-Khurda

5. Deputy Chief Personal Officer, S.E.Railway,
Chandrasekharapur, Bhubaneswar, Dist-Khurda

... Respondents

By the Advocates

Mr.P.K.Mishra, A.S.C.
(Railways)

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O R D E R

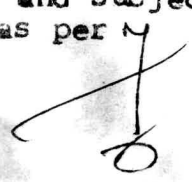
MR.MANORANJAN MOHANTY, MEMBER(J): Nine Applicants, who are working as Motor Drivers in Railways, in this Original Application under Section 19 of the Administrative Tribunals Act, 1985, have assailed Annexure-6 dated 21.8.1997, by virtue of which they have been approved (by the Chief Administrative Officer(Con.), Bhubaneswar) for regularisation against the Group-D category in the scale of Rs.2550-3200/-(RPS). In the fitness of things, we quote the pleadings of the Applicants (as made in Para-4.6 of the O.A.) as under :-

" That from a memorandum issued on 21.8.99 vide (Annexure-6), it is further made clear that all the applicants have been regularised from 1993 against the post of Driver, Gr-II. It is abundantly made clear that all the applicants are continuously discharging their duties and they have been regularised from 1993. When all the applicants have been regularised against the post of Driver w.e.f. 1993 with higher scale, the impugned memorandum has shown that the applicants against the Group-D category in the scale of Rs.2550/- to Rs.3200/-. Such action is thoroughly illegal, arbitrary and contrary to law, on the one hand, the applicants have been shown regularised from 1993 against the post of driver and on the other hand they will be shown as being regularised against Group-D category. Hence, Annexure-6 is to be modified to the extent of instead of showing them Group-D category, the applicant be shown against Group-C category with the scale of pay attached to the post".

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2. We have heard the learned counsel for the applicants and Shri P.K.Mishra, learned counsel appearing on behalf of the Respondents-Railways and also perused the counter and additional counter filed by the Respondents. Respondents-Railways through their additional counter have brought to our notice with regard to regularisation of Applicant No.2 (named Sanyasi Bisei) that having been successful in the trade test and there being vacancies available in the CE(C)/II/Bhubaneswar Unit, he has been absorbed against Motor Vehicle Driver, Gr.III with effect from 8.8.1992 vide Office Order No.23/2003(Annexure-A/9) dated 8.4.2003 and, therefore, the grievance of the Applicant No.2 (as raised in this O.A.) does not survive any more. So far as Applicant No.8(Shri S.Satyanarayana) is concerned, the Respondents have disclosed that his regularisation has been done by the Dy.CSTE(Construction)/S.E.Railways, Bhubaneswar's Office; which is a separate unit. They have, however, submitted that action has been initiated to ascertain how Sri S.Satyanarayana, Applicant No.8 has already been regularised by the Dy.CSTE/(CON)/S.E.Railway/Bhubaneswar and that is how the matter is under review. As regards the rest of the Applicants are concerned, the Respondents have submitted as under:-

"...the other applicants having worked in other than Chief Engineer(Construction)/II/SE Railway/Bhubaneswar unit as on 14.5.1993, their case did not fall in CE(S)/II/BBS Unit in terms of Annexure-A/3 to the counter and after 14.5.1993, their seniority is being maintained in terms of Estt.Serial No.61/93 (also the same Annexure-A/3) at CAO(CON) Bhubaneswar's level and they will be considered for regularisation as Vehicle Drivers Grade-III according to their turn and subject to availability of vacancies and as per extant rules".



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In Para-9 of the counter, the Respondents-Railways have averred as under:-

"...it is humbly submitted that the averments in this paragraph are nothing but misconception of the applicants. All the applicants though have been regularised in Group 'D' category, they are allowed for working as Drivers on adhoc basis, keeping their monetary benefits in view".

3. The above averments have not been controverted by the Applicants by filing any rejoinder. Thus, from the above quoted averments, we are convinced that the Respondents are careful and heedful to safeguard the interests of the Applicants in all respect. The Applicants have also not urged as to how they are adversely affected by the issuance of Annexure-6 nor anywhere have they made a whisper that their services as Driver are being extracted by the Respondents in lieu of Group-D employees. The Applicants have also not made any point that they have been discriminated against nor have they brought to the notice of the Tribunal any infringement of rules/instructions by the Respondents.


4. Viewed from above angle, the applicants having not challenged the vires of any rules/instructions germane to the averments of the Respondents, the Tribunal is not to interfere in the process/course of action as stated to be taken by them. The Tribunal cannot direct regularisation in the absence of regular vacancy and we are satisfied from the counter and additional counter that the Respondents are very much watchful to rules and instructions on the subject and they have made no attempt to make their process a vulnerable one. It is their unequivocal statement that the case of the Applicants would be

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considered in turn and subject to availability of vacancies and as per extant rules.

5. For the foregoing discussions, while we dispose of this O.A. against Sanyasi Bisoi (applicant No.2), as infructuous, we are not inclined to interfere with the action taken by the Respondents-Railways, in so far as Annexure-6 is concerned. The O.A. is disposed of accordingly, leaving the parties to bear their own costs.


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

BJY