

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION No. 148 OF 2000
Cuttack this the 14th day of May 2002

Shri Prafulla Sahoo
S/o: Late Bhaskar Sahoo
and 21 others.

... Applicants

VERSUS

Union of India and others

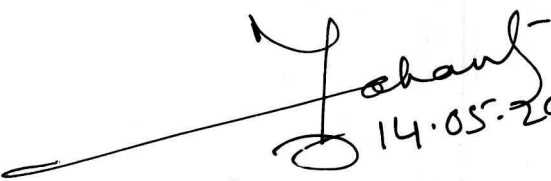
... Respondents

(FOR INSTRUCTIONS)

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

Yes.

No.


(M.R. MOHANTY)
MEMBER (JUDICIAL)

14.05.2002

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 148 OF 2000
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CORAM

THE HON'BLE M.R. MOHANTY, MEMBER (JUDICIAL).

1. Prafulla Sahoo,
S/o: Late Bhaskar Sahoo,
Village-Mudugala, PO: Namaro,
Via - Kakatpur, Puri.
 2. Narahari Naik,
S/o: Bhatakishore Naik,
village : Mudugala,
POST : Namaro,
Via - Kakatpur, Puri.
 2. Ajaya Kumar Senapathy,
S/o: Kunja Bihari Senapathy
Via: Kendrapati, PO: Namaro,
Dist: Puri.
 4. Prahallad Sahoo,
S/o: Kashinath Sahoo,
Vill: Mudugala, Via: Kakatpur
P.O.: Nomaro, Dist: Puri.
 5. Alekh Baral,
S/o: Bhagabat Baral,
Vill: Tiunty,
P.O.: Kahala, Dist. Puri.
 6. Ramachandra Badajena,
S/o: Raghunath Badajena,
Vill. Demodarpur, PO: Sarkantra,
Dist: Puri.
 7. Harihara Sahoo,
S/o: Musi Sahoo,
Vill: Mitupur, PO: Bantegaon,
Dist: Puri.
 8. Badu Biswal,
S/o: Karunakar Biswal,
Vill: Ratanpur, PO: Udayapur,
Puri.
 9. Gorachand Pattnaik,
S/o: Bhikari Pattnaik,
At: Kalapada,
PO: Motari, Puri.
 10. Gopinath Pandia,
S/o: Manguli Pandia,
At/PO: Padampur,
Puri.
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11. Pradeep Kumar Mangaraj
S/o: Balabhadra Mangaraj
AT : Ankoi, PO: Motari,
Puri.
12. Bimbadhar Mansingh,
S/o: Kelu Mansingh,
At - Ankoi, PO: Motari,
Puri.
13. Ramachandra Routray,
S/o: Radhashyam Routray,
At : Garhkilapada, PO: Motari,
Puri.
14. Sidheswar Behera,
S/o: Jayee Behera,
At : Kendrapati, PO: Namaro,
Puri.
15. Upendra Mudulli,
S/o: Gouranga Mundulli,
At: Ballikandala, PO: Bhairipur,
Dist : Puri.
16. Trilochan Sahoo,
S/o: Natabar Sahoo,
At : Sauri, PO: Birianga,
Dist: Puri.
17. Sarat Kumar Mohapatra,
S/o: Narasingh Mohapatra,
At : Parichapalli, PO: Retanga,
Dist: Puri;
18. Raghunath Pani,
S/o: Sankar Pani,
At : Saripur, PO: Udayapur,
Dist: Puri;
19. Ramachandra Bahisol,
S/o: Mahendra Bahisol,
At: Ratanga, Puri.
20. Basanta Kumar Pana,
S/o: Rankanidhi Pana,
At/PO: Pugusahi, Puri.
21. Pradyumna Kumar Mohapatra,
S/o: B. Mohapatra,
At : Budhakhandi, PO: Sisola,
Puri.
22. Khetra Mohan Acharya,
S/o: Jambeswar Acharya,
At : Chaupur,
PO : Motori, Puri.

By the Advocate

... Applicants

... Mr.D.P.Dhalsamant.

- VERSUS -

1. Union of India represented through its General Manager, South Eastern Railways, Garden Reach, Calcutta-43;
2. Divisional Railway Manager, Khurda Road Division, South Eastern Railway, Jatni, Khurda.
3. Divisional Personnel Officer, Khurda Road Division, South Eastern Railway, Jatni, Khurda,
4. Divisional Traffic Inspector(C), Khurda Road Division, South Eastern Railway, Jatni, Khurda,
5. Divisional Operating Superintendent, Khurda Road Division, South Eastern Railway, Jatni, Khurda.

... Respondents.

By the Advocate

... Mr. S.R.Patnaik, Ld. Counsel

O R D E R

MR. M.R. MOHANTY, MEMBER (JUDICIAL): The Applicants in this Original Application under Section 19 of the Administrative Tribunal Act, 1985, have prayed for issuance of directions to the Respondents to discontinue the practice of engaging outsider substitutes and to direct the Respondents to engage the Applicants as substitutes in the clear vacancies arising under the Respondents, from time to time (when the permanent or the temporary staff remain absent either on Earned Leave or temporary sick leave or leave etc.).

(2) The brief facts of this case are that the Applicants were registered as 'substitutes' under the Respondents on 22.02.1972. It is the case of the Applicants that in accordance with Railway Board circulars

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(No.E.(NG)65 LR I-1 of 01.09.1965, Sl.No.ER 6149/NR 3147 No.(NG) II/77/SB/37 of 24.10.1978 and Sl.No.NR 7141/ER/83/78) it has clearly been laid down that a register should be maintained recording the names of all substitutes (wherever employed in Railways) and that, at the time of short or long vacancies occurred from time to time, these vacancies should be filled up by the substitutes enrolled in the Registers in question. It has been alleged by the Applicants that certain persons, junior to them in the list/register of substitutes maintained, have been given permanent Grade 'D' posts.

(3) In the counter, the Respondents have mainly raised the question of limitation, on the ground that the Applicants have approached this Tribunal after a lapse of 28 years. It has been stated by the Respondents that the Applicants did not approach the authorities/this Tribunal immediately after the alleged juniors were taken to regular establishment.

(4) Under the Railway Board circular, as stated (supra) persons named in the Substitute Register were to be given job, as and when required, and ultimately, they were available to be taken to regular establishment. The Applicants were neither given engagements as substitutes nor were considered to be taken to regular establishment, when their juniors were taken to permanent Gr. 'D' posts in gross disregard to the Railway Board circulars which were statutory in character. Since there were violation of statutory provisions in the matter of giving substitute engagements and in the matter of taking

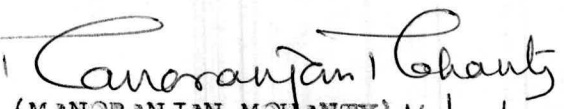
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the Applicants to permanent Gr.'D' posts, the actions of the Respondents cannot be allowed to stand in the touch stone of the present judicial scrutiny.

(5) That apart when injustice is glaring, hypertechnical objections, as raised by the Respondents in the counter with regard to the question of limitation, cannot be allowed to stand in the way for dispensation of justice and, therefore, the main objection of the Respondents, pertaining to question of limitation, is hereby overruled.

(6) As a consequence this Original Application is allowed. The Respondents are directed to closely examine the case of the Applicants in order to give them substitute employment and to take them to permanent Gr. 'D' posts. The case of the Applicants should receive due consideration within the outerlimit of 120 days from the date of receipt of the copy of this order.

In the result, this Original Application is allowed. No costs.


(MANORANJAN MOHANTY) 14/05/2002
MEMBER (JUDICIAL)