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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 92 OF 2001
Cuttack this the 21st day of February/2003

P.N.Sahoo & Others ... Applicants

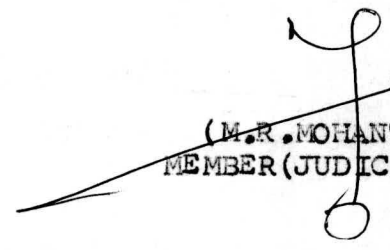
-VERSUS-

Union of India & Others ... Respondents

FOR INSTRUCTIONS

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


(B.N. SOM)
VICE-CHAIRMAN


(M.R. MOHANTY)
MEMBER (JUDICIAL)

21/02/03

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 92 OF 2001
Cuttack this the 21st day of February/2003

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

AND

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

...

1. Sri Paramanda Sahoo, aged about 33 years,
Son of Gobinda Chandra Sahoo, resident of
Vill-Bemupada, PO-Delang, Dist-Puri
2. Sri Purna Chandra Sahoo, aged about 33 years,
Son of Sadasiva Sahoo, resident of Vill/PO-
Sisuapada, PS-Delang, Dist-Puri
3. Bhagirathi Jena, aged about 34 years, Son of
Dasarathi Jena, resident of Vill/PO-Radhua,
PS-Delanga, Dist-Puri
4. D.Narasingh Rao, aged about 34 years, Son of
D.Trinath Rao, C/o.P. Eswor Rao (Civil Supply Office)
resident of Vill/PO-Kaspit Street, Srikakulam (AP)
5. Sri Subash Chandra Pradhan, aged about 33 years,
Son of Rama Chandra Pradhan, resident of Vill-
Belpada, PO-Muma, PS-Rambha, Dist-Ganjam
6. Sri Samir Biswal, aged about 36 years,
Son of P.C. Biswal, resident of Vill-Kanthapada,
PO - Trilochan Pur, PS-Kanas, Dist-Puri
7. Sri Santanu Kumar Swain, aged about 36 years,
Son of Pitabash Swain, resident of Vill/PO-Chaitana
Dist-Puri
8. Md. Mistak, aged about 33 years, Son of Md. Kasim,
resident of Vill-Ghoradia, PO-Gop Patana, Dist-Puri
9. Sri Nrusingh Chandra Mishra, aged about 32 years,
Son of Sadasiv Mishra, resident of Vill/PO-
Gajapatinagar, Dist-Puri
10. Sri Niamudin Khan, aged about 32 years, Son of
Samnasur Mahamad, resident of Vill-Ghanipur,
PO-Ghoradia, Dist-Puri
11. Sri Sashibhusan Nanda, aged about 34 years,
Son of Satyanarayan Nanda, resident of Vill-
Kalinganagar, PO-Balla, Dist-Khurda
12. Sri Rabindranath Mahapatra, aged about 33 years,
Son of Nidhi Mahapatra, resident of Vill-Barapada,
PO-Godiputmatiapada (Near Jatani) PS-Delang, Dist-Puri
13. Sri Trilochan Mahapatra, aged about 33 years,
Son of Kasinath Mahapatra, H/O. Late Raghunath
Nayak, resident of Vill-Hadgadia Sahi, PO-Radhagobinda
Lane (Near Trinath Temple) PO / Dist: Puri

14. Sri Hemant Kumar Nayak, aged about 33 years, Son of B.Nayak, resident of Vill/PO-Birahare-krushnapur, Dist-Puri
15. Pradip Samal, aged about 34 years, Son of Badhadev Samal, resident of Belapada, PO-Badatota, Via-Jatani, Dist-Khurda
16. Sri Gunanidhi Biswal, aged about 35 years, Son of Laxman Biswal, resident of Vill-Bitipur, PO-Jorakani, Dist-Puri
17. Sri Rabinarayan Rath, aged about 34 years, Son of R.C.Rath, resident of Vill/PO-Sadangoi, Via-Delang, Dist-Puri
18. Sri Hari Bandhu Mishra, aged about 34 years, Son of Abhimanyu Mishra, resident of Vill/PO-Biragobindapur, Dist-Puri
19. Sri Dinabandhu Mahapatra, aged about 34 years, Son of Late Sanatan Mishra, resident of Vill/PO-Jampada, Via-Brahma Barada, Dist-Jajpura-755 005
20. Sri Gangadhar Jena, aged about 34 years, Son of Bhagaban Jena, resident of Vill-Asaral, PO-Pichukuli, Dist-Khurda

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Applicants

By the Advocates

M/s. Dr.D.B.Mishra
T.K.Sahoo
P.K.Das

-VERSUS-

1. Union of India represented through its Chief Personnel Officer, S.E.Railway, Garden Reach, Calcutta-43
2. Divisional Railway Manager, S.E.Railway, Khurda Road, PO-Jatni-752 050, Dist-Khurda
3. Chairman, Railway Recruitment Board, Chandrasekharapur, Bhubaneswar (Orissa)

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Respondents

By the Advocates

Mr.D.N.Mishra
Mr.B.Pal
Mr.R.C.Rath

C O R D E R

MR. MANORANJAN MOHANTY, MEMBER(J): Applicants, 20 in number, claiming to be retrenched casual labourer of the South Eastern Railways, have filed this Original Application under Section 19 of the Administrative

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Tribunals Act, 1985, praying for direction to Respondents to allow them to compete with the candidates from the open market (by getting additional credit for their experiences/past services and upper age relaxation in terms of principle decided by the Apex Court, reported in AIR 1998 SC 1477, in the case of Arun Kumar Rout vs. State of Bihar) and to extend the benefit of orders passed in O.A.Nos.365/87, 366/87, 155/95, 153/97 and 154/97 (by claiming themselves to be similarly placed as that of the Applicants in those cases) and to include their names in the Live Casual Register and to grant them consequential regularisation. It is the case of the Applicants that they were selected in a process of regular recruitment and were employed as casual labourers (in Group D category posts) by the Chairman of Railway Recruitment Board (Bhubaneswar) and due to nonavailability of sanctioned posts all of them were retrenched from service with effect from 4.2.1986; after put in 120 days of service. Since their repeated requests did not yield any fruitful result, after coming to know that similarly circumstanced persons have been empanelled/engaged by virtue of the directions of this Tribunal in the aforementioned O.As, they have approached the Tribunal with the prayers referred to above.

2. Respondents have filed their counter controverting the averments made (by the Applicants) in this Original Application. They have pointed out that the applicants were never selected for engagement as casual labourers through a regular process of recruitment by the Railway Recruitment Board. A stand

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has been taken in the said counter that the Railway Recruitment Board Manual does not confer any power (on the Railway Recruitment Board) to engage any casual labour or substitute. The Respondents have disputed the very engagement of the Applicants on casual basis. It has been disclosed in the counter that the relevant records were verified and that it has been found out that no retrenchment order (as at Annexure-1) had ever been issued. Further, the Respondents have also pleaded the maintainability of this Original Application (on the ground of limitation) basing on the judgments of the Hon'ble Apex Court; which had also been taken into consideration by the Calcutta Bench of this Tribunal while deciding a similar matter.

3. We have heard Dr.D.B.Mishra, the learned counsel appearing for the Applicants and Mr.B.Pal, the learned senior counsel for the Railways (assisted by Mr.R.C.Rath, learned Standing Counsel for the Railways) and perused the materials placed on record.

4. It is to be noted here that mere existence of right is not enough to approach the Court/Tribunal direct. A Government servant should, at first, try to ventilate his grievances, if any, before his/her authorities in the Department. In this case no records have been placed before us to show that the Applicants had ever made an attempt at their level best to get employment in the Railways and that, having failed in in their approaches, they have come to this Tribunal.


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Mere allegation made in that behalf is not enough, especially when the Respondents have denied such grievances of the Applicants. Since the very entry/engagement of the Applicants in the Railways are in cloud and disputed by the Respondents, we have no hesitation to hold (applying the ratio of the order passed by the Calcutta Bench of this Tribunal rendered in O.A. No.966/99 disposed of on 22.11.2001) that the applicants have miserably failed to substantiate their claims for employment in the Railways and, in the said premises, the decision as relied upon by the Applicants in the case of Arun Kumar Rout & Others vs. State of Bihar & Ors. (reported in AIR 1998 SC 1477) has no application to the facts and circumstances of this case; moreso when it has been specifically held by the Hon'ble Apex Court of India that the said decision is not to be treated as a precedent.

5. In the said premises, we find no merit in this Original Application; which is, accordingly, dismissed leaving the parties to bear their own costs.


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

24/02/03

KNM/