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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.**

**O.A. NO. 825 OF 2003**  
**Cuttack, this the 10<sup>th</sup> day of November, 2005.**

PARAMANANDA & OTHERS.                      APPLICANT


VERSUS

UNION OF INDIA & ORS.                      RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Yes.*
1. Whether it be circulated to all the Benches of CAT? *Yes.*

  
(B.N.SOM)  
VICE-CHAIRMAN

  
(M.R.MOHANTY) 10/11/2005-  
MEMBER (JUDICIAL)

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.**

**ORIGINAL APPLICATION NO. 825 OF 2003  
Cuttack, this the 10<sup>th</sup> day of November, 2005**

***C O R A M:-***

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

Paramanda & 13 Others. .... Applicants.

By legal practitioner: M/s. A.K.Bose, P.K.Das, D.K.Mallick,  
Advocates.

VERSUS

Union of India & Others. Respondents.

By legal practitioner: Mr.B.Pal, Sr. Counsel for Railways  
Mr.O.N.Ghosh, Counsel for Railways.

O R D E R

MR.M.R.MOHANTY, MEMBER(JUDICIAL):-

Twenty nine employees (working in different grades) of the Grinder Chipper Flash Butt Welding Plant of South Eastern Railway (which is located at Jharsuguda, in the State of Orissa) have joined together in this Original Application filed under section 19 of the Administrative Tribunals Act, 1985; wherein they have challenged their redeployment (by order under Annexure-A/2, 01-10-2003) to Railway Workshop at SINI (in the State of Jharkhand) on the ground that the deployment has been ordered in gross violation of the existing policy of redeployment and without consideration of the options called for by the competent authority . It has been alleged that options were called for by fixing the last date to 30-09-2003, (under Annexure-1 dated 16.09.2003); but before the last date (30-09-2003), the impugned order was passed on the basis of a confidential order that was passed on 27-09-2003. They have also challenged their redeployment to SINI on various other grounds discussed herein below.

2, Respondents have filed their counter (denying the stand taken by the Applicants, in their Original Application) by stating therein that the redeployment was necessitated due to reduction of staff strength



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at Jharsuguda Workshop of the Railways and that by asking for said deployment no fundamental rights of the Applicants have been infringed and, therefore, interference of this Tribunal is uncalled for.

3. It may be noted here that originally 29 Applicants have filed this Original Application. However, during the pendency of this Original Application, fourteen of them stated to have joined at their new place of posting and one of them stated to have taken voluntary retirement. As such, the result of this Original Application would be binding only on the left out fourteen (14) Applicants.

4. We have heard Mr. Anup Kumar Bose, Learned Counsel appearing for the Applicants and Mr. B.Pal, Learned Senior Counsel appearing for the Respondents (assisted by Mr. O.N. Ghosh, Learned Counsel for the Railways) and perused the various materials placed on record.

5. Learned counsel appearing for the Applicants has submitted in the course of argument, that the redeployment order is nothing but colourable exercise of power inasmuch as the same has not been made in accordance with the policy of redeployment. It has been submitted by him that (a) as would be evident from Annexure-A/2 dated 1.10.2003 that such decision to redeploy the Applicant was taken on the basis of the confidential letter given by the Deputy Chief Engineer/F.B.W.P./JSG dated 27.9.2003, whereas the Applicants were



asked for option to be exercised by 30.09.2003; (b) that although Railway Board Circular dated 29.09.1967 & 10.06.1968 provide that, in the event an establishment is found with surplus staff, then such of the surplus staff may be required to be posted in other Departments of the Railways and in gross violation of the said statutory provisions, the Applicants have been shunted out to far away place ; (c) that although the policy of deployment specifically provides that deployment shall be made in lowest grade and though there are three grades (i.e. Grades - I, II and III) in Jharsuguda Workshop of the Railways, the deployment has been made only from among the Grade I and II; (d) that although four Khalasis opted to go on redeployment to Railway Workshop at SINI, they were not disturbed (e) that no individual relieve order has been passed or served on the Applicants and (f) that although the earlier deployment order dated 1-10-2003 was withdrawn by order dated 10.06.2004 (during the pendency of this Original Application); just after eight days i.e. on 18.06.2004, again, the Respondents passed orders of redeployment (without giving any opportunity to the Applicants to exercise their option, as was done in earlier occasion) and, on the above grounds, the learned counsel appearing for the Applicants have prayed for quashing of the fresh order of redeployment that was passed on 18.06.2004.

6. On the other hand, it has been submitted by the learned Senior Counsel appearing for the Respondents that presently there are

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two Civil Engineering Workshops in the South Eastern Railway; one is at SINI (Jharkhand) and the other one is at Jharsuguda (Orissa) and like wise there are two Mechanical Engineering Workshops one is at Kharagpur and the other is at Mancheswar. As the nature of the work of both the engineering workshops is different, one wing staff can not be adjusted in other wing even on redeployment. During 2003 as the departmental work at Flash Butt Welding Plant at Jharsuguda (Orissa) was drastically reduced; instead of retrenching the existing personnel, by following the provisions of Industrial Disputes Act, 1947; as work is available for such surplus departmental staff at Engineering workshop, at SINI (Jharkhand), it was thought just and proper to adjust them at SINI. It was, therefore, prayed by the learned Senior counsel appearing for the Respondents-Railways that, as the entire exercise was undertaken in the interest of the employees, this Tribunal may not interfere in the matter.

7. We have taken note of the submissions advanced by the parties and perused the materials placed on record; especially the policy framed by the Railways with regard to redeployment of surplus employees. It is clear from the policy, that Railways do not want to retrench the surplus staff; but to make all round endeavour to retain them even by creating supervisory posts. It appears that there is no whisper in the policy of redeployment that, before being redeployed of surplus, staff

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option should be called from the employees of the Railways. Clause-IV of the of the said policy merely provides as under:-

“IV. REDEPLOYMENT OF SURPLUS STAFF RETIRING SHORTLY.

All surplus staff irrespective of the grades who are superannuating within the next three years (3 year period should be counted from the date of issue of these instructions in the case of those already declared surplus and from the date of staff being rendered surplus in future cases) should be redeployed at the same station in any department where vacancies exist and where they can be utilized gainfully, and the original posts surrendered and money value credited to the Vacancy Bank. Those of such staff who cannot be redeployed at the same station for any reason should be placed against special supernumerary posts forthwith . On vacation of the special supernumerary posts by them in due course for any reason such as retirement etc. these posts are to be surrendered and money value credited to the Vacancy Bank.”

8. We are in full agreement with the submissions made by the Learned counsel appearing for the Respondents-Railways that due to reduction of the work, the Applicants were declared surplus and, instead of throwing them out from the employment (since work is available at SINI Workshop) they have been asked to be adjusted. At the same time, one cannot close its eyes that, on 16.09.2003, the Deputy Chief Engineer (FBWP), S.E. Railway, at Jharsuguda called for options (to be exercised by 30.09.2003) from the interested staffs of the FBWP to be redeployed to SINI; whereas, on the basis of the letter of the Dy.CE/FBWP/JS

dated 27.09.2003, the Applicants were asked to be redeployed on 01-10-2003; obviously without looking to their options. As the said action of the Respondents, prima facie, was found to be illegal; while ordering for issuance of notice on 14-11-2003, as an interim measure, the Respondents were directed not to take any action on redeployment of the Applicants. Thereafter M.A.Nos. 994 & 1002 of 2003 were filed by the Respondents disclosing the policy of the redeployment and praying for modification of the ad-interim order; which were heard on 08.12.2003 & following directions were made:-

We have given our anxious consideration to the import of redeployment orders passed on 27.09.2003 ( i.e. , well before the last date which was fixed to 30.09.2003 for exercising options) by an authority apparently was incompetent to do so.

Having regard to the complexity of the matter we hereby direct the Respondents that pending finalization of the issue raised in this O.A, they should take back the Applicants to their respective posts at Jharsuguda Workshop, pay them salaries for the month of November, 2003 ( as also for the current month or till the disposal of this O.A. whichever is earlier) and also in the time between, **they shall call upon the staff of Jharsuguda Workshop to exercise their options** for being redeployed to Sini Workshop, by informing them about the policy on redeployment, as stated by them in the M.A. No. 1002/2003. Respondents are also called upon to file their counter by 15.12.2003.....”.

Respondents by filing M.A.No. 209/2004 have sought for permission of this Tribunal to withdraw the impugned redeployment order dated 01-10-2003 (Annexure-2); which was taken up on 22.05.2004 and, on hearing the counsel for both sides, the Respondents/Railways

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were permitted to withdraw the impugned order of redeployment and to carry out the task of redeployment of surplus staff of the said Plant in accordance with rules.

As is evident, on 10.06.2004, the said impugned order dated 1.10.2003 was withdrawn and, without calling for any options/ without informing the policy of redeployment/without complying the orders of this Tribunal quoted above, the Respondents/Railways again issued an order of redeployment dated 18.06.2004; which is the subject matter of consideration after amendment of the O.A., in the present case.

9. In the above premises, it is clear that the Respondents-Railways did not call for any fresh option from the redeployed staff/Applicants before the fresh order under Annexure-II was issued. From the cause title of the OA it is seen that some of them are to retire within 3 to 4 years and, as per the policy, steps ought to have been taken to adjust them in any other nearby Department in the Railways (instead of shunting them out to SINI) or by creating supernumerary post. From clause IV of the policy it is clear that the authorities have the power to adjust the redeployed employees in other department of the Railway in existing vacancies. Had the Authorities/Respondents given opportunity to all the staff of the Workshop at Jharsuguda including the Applicants, to exercise their option, then senior willing personnel might have got an opportunity to apply to go to SINI and, in that event, some of the

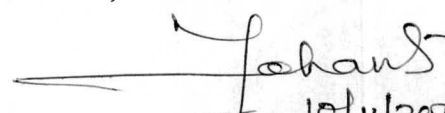
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Juniors/Applicants could have been escaped from the vice of transfer on redeployment. In that event, the Applicants could have pointed out the vacancies in other Department of the Railways, where they can be accommodated. Therefore, the entire action of the Respondents can be stated to be arbitrary, in gross violation of the principles of natural justice/Article 14 of the Constitution of India and an unhealthy personnel management.

10. In the result, the fresh redeployment order under Annexure-II dated 18.06.2004 being bad, the same is hereby quashed so far as the left out 14 Applicants are concerned. The Respondent-Department is hereby directed to (a) call for option from the existing employees of the FBWP/Jharsuguda and (b) only after consideration of the options/representations, if any, to be offered by them, the Respondents should take further action in the matter. In case it is really not possible to adjust them at or near about Jharsuguda, then all doors should be kept open to bring them back from SINI- Workshop, no sooner a vacancy is made available for them at/near Jharsuguda.

With these observations and directions, this O.A. stands disposed of. No costs.

  
(B.N.SOM)  
VICE-CHAIRMAN

  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)  
10/11/2005