

25

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

O.A. Nos. 261 and 486 to 500 of 2005

Cuttack, this the 17<sup>th</sup> day of September, 2009

Mrityunjay Nanda and others	.....	Applicants
Vrs.		
Union of India and others	.....	Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not?
- 2) Whether it be sent to the P.B., CAT, or not?

(C.R.MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K.THANKAPPAN)  
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH

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Cuttack, this the 17<sup>th</sup> day of September, 2009

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER  
AND

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

.....

1. Mrutyunjay Nanda, aged about 40 years, son of Sudarsan Nanda, At/PO Abhay Mukhi, Ram Chandrapur, Via-Berbaj, Dist.Puri, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
2. Chandra Sekhar Sahu, aged about 42 years, son of late Rama Chandra Sahu, Jaura Street, At/PO Berhampur 9, Dist.Ganjam, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
3. Sukumar Chandra Ball, aged about 42 years, son of Sri Keshab Chandra Ball, village Akabarbad (Nakhapasi), P.O.Chandikhol, Dist.Jajpur (Orissa), presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
4. Bijaya Kumar Choudhury, aged about 45 years, son of Chakradhar Choudhury, IHG 38, Vijaya Vihar, Chandrasekharpur, Bhubaneswar, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
5. Raikumar Manda, aged about 36 years, son of M.R.P.Rao, VI-M-66, Sailashree Vihar, Chandrasekharpur, Bhubaneswar, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
6. Sanaram Hembram, aged about 39 years, son of late Hembram, 53/2 Housing Board Colony, Chandrasekharpur, Bhubaneswar, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
7. Dhaneswar Das, aged about 38 years, son of Artabandhu Das, village Talabassa, Via Danpara, Dist. Cuttack presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.

8. Dharma Majhi, aged about 43 years, son of Ram das Majhi, village Bhadu Sahi, P.O. Talak Pokhari, Dist. Mayurbhanj, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
9. Mihir Kumar Ray, aged about 35 years, son of Dinabandhu Ray, village G.Sugo, Via Ertal, Dist. Bhadrak (Orissa), presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
10. Subash Das, aged about 37 years, son of Rahash Das, At/PO Badasar, Vill. Itamati, Dist. Nayagarh, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
11. Harihar Sahu, aged about 46 years, son of late Sridhar Sahoo, At-Adia, P.O. Wada, Via Soro, Dist. Balasore, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
12. J.Md.Yunus, aged about 42 years, son of Md.Ayub, At/PO Danogahir, Via Pipili, Dist. Puri, presently working as Head Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
13. Shyam Charan Handa, aged about 37 years, son of Daro Hansda, At/PO-S.2/633, Niladri Vihar, Chandrasekharpur, Bhubaneswar, presently working as O.S.I, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
14. Rabindra Nath Pradhan, aged about 38 years, son of late Baban Pradhan, village Achutapur, P.O. Garaharupal, Via Gope, Dist. Puri, presently working as Sr. Clerk, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
15. Pratap Kumar Mohanty, aged about 44 years, son of late Kailash Ch. Mohanty, presently working as O.S.II, Office of East Coast Railway, Chandrasekharpur, Rail Vihar, Bhubaneswar.
16. K.V.S.Prabhakar, aged about 30 years, son of late K.V.S.N.Murty, working as Junior Clerk, East Coast Railway, Chandrasekharpur, Bhubaneswar.....APPLICANTS

Advocates for the applicants

- M/s J.Sengupta, G.Sinha,  
D.K.Panda, A.Mishra.

Vrs



1. Union of India, represented through Chairman, Railway Board-cum-Ex-Officio Secretary, Ministry of Railways, Railway Board, Rail Bhavan, New Delhi.
2. General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar 751023, Dist. Khurda.
3. Chief Personnel Officer, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
4. Controller of Stores, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar 751023, Dist. Khurda.
5. Sri Basant Kumar Barik, aged about 48 years, son of Sri Dinabandhu Barik, resident of village Bodhasara, P.O.Mouda, P.S.Salipur, Dist. Cuttack, working as Chief Depot Materials Superintendent in the office of Controller of Stores, East Coast Railway, New Annex Building (West), Chandrasekharpur, Bhubaneswar.
6. Sri Junas Hasda, aged about 42 years, son of Sri Andhriash Hasda, Vill Bhikampur, P.O. Salbira, Dist.Sundargarh (Orissa), working as DMS Grade I, Controller of Stores Office, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar 23
7. Sri Rashmi Ranjan Samal, aged about 42 years, son of Duryodhan Samal, resident of village Ramiaganj, P.O. Marshaghai, Dist. Kendrapara, working as DMS II in the office of the Controller of Stores, East Coast Railway, New Annex Building (West), Chandrasekharpur, Bhubaneswar.
8. Sri Umakanta Mishra, aged about 42 years, son of Sri Bhimsen Mishra, resident of Harichandanpur Sasan, P.O. Narsinghpur, P.S.Narsinghpur, Dist. Cuttack, working as DMS II in the office of the Controller of Stores, East Coast Railway, New Annex Building (West), Chandrasekharpur, Bhubaneswar.
9. Sri Bhabagrahi Mallick, aged about 40 years, son of Sri Pranabandhu Mallik, Vill/P.O.Gopabandhu Nagar, P.S.Dhusuri, Dist. Bhadrak, working as DMS II in the office of the Controller of Stores, East Coast Railway, New Annex Building (West), Chandrasekharpur, Bhubaneswar.
10. Sri Manas Kumar Patra, aged about 33 years, son of Sri Madan Mohan Patra, Vill Pararbil, P.O.Kendrapur, P.S.Kishore Nagar, Dist. Cuttack, working as DMS II in the office of the Controller of Stores, East Coast Railway, New Annex Building (West), Chandrasekharpur, Bhubaneswar.





11. Sri Sambhunath Mallik, aged about 35 years, son of late Sri Dayanidhi Mallik, vill Madukarkhunta, P.O Santaragadia, P.S.Nilgiri,Dist. Balasore, working as DMS III in the office of the Controller of Stores, East Coast Railway, New Annex Building (West), Chandrasekharpur, Bhubaneswar....RESPONDENTS

Advocates for the Respondents - M/s Ashok Mohanty, R.C.Rath and P.K.Jena, N.Panda, D.P.Mohapatra.

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ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

1. All the above O.As. have been filed by the applicants praying for a direction to the Respondent-Railways to form a ministerial cadre of the Stores Department of Headquarters Office of the East Coast Railway taking into consideration 37.5% of money value of posts of S.E.Railway at par with the prevailing policy of the S.E.Railway. The applicants have also prayed for a direction to the Respondents not to include the post of Depot Material Superintendents in the cadre of Controller of Stores Office and for other consequential relief.

2. The grievance of the applicants actually rests on Annexure 1 letter/order of the Government of India, Ministry of Railways, New Delhi, dated 8.8.2002 . The above order was issued on the basis of earlier letters dated 2.1.1997, 29.8.1997 and 31.10.1997 on the eve of



reorganizing the South Eastern Railway or rather formation of two more Railway Zones, namely, East Coast Railway and South East Central Railway with an idea to constitute 11 Departments in each Zone. As per the letter dated 8.8.2002, the reduction of sanctioned strength of Groups C and D posts in the Headquarters Office of the existing Zonal Railway has to be implemented and 37.5% of the posts of Groups C and D reduced in the existing Zonal Headquarters of South Eastern Railway has to be transferred to East Coast Railway, Bhubaneswar. For implementation of the restructuring order issued by the Railway Board, the entire cadre in the Headquarters Office has to be reconstituted. Because of the reconstitution of the cadre structure in the Headquarters Office, options called from Groups C and D employees, working both at the Headquarters Office of the existing Zonal Railway for being transferred to the Headquarters Office of the East Coast Railway as a conspicuous policy decision of the Railway Board. They have stated that in the Zonal Railway the Stores Department has got three wings, namely, (1) Headquarters Office, (2) Stores Depot, and (3) Division Office. According to the applicants, the Headquarters Office should have been manned only by ministerial cadre, the Stores Depot by Depot Material Superintendents (DMS) and



Inspectors (F&S), and Division Office by Chasing Inspectors (CI). The applicants have stated that 37.5% posts or posts of equivalent money value have not been created in the ministerial cadre in the Headquarters Office of the Stores Department. In this connection, they have stated that there were no posts of DMS and CI in the Headquarters Office of the Stores Department in the erstwhile South Eastern Railway nor were these posts included in the cadre structure of the Headquarters Offices of other Zonal Railways of the Indian Railways. The grievance now projected by the applicants in these O.As. is that while constituting the staff structure at the Headquarters Office of the East Coast Railway, ministerial staff and non-ministerial staff were allowed to be included in the staff structure of the Headquarters Office of the East Coast Railway and thereby the promotional chances of the applicants, who belong to the ministerial cadre, would be affected.

3. When the O.As. came up for admission, this Tribunal passed an interim order directing that any appointment made in the meantime shall be subject to the result of this O.A. This interim order is still in force.



4. A counter has been filed for and on behalf of the Respondent-Railways in OA No.261 of 2005 which is taken as a common counter in all the O.As. The Respondent-Railways have strongly opposed the claims of the applicants. It is stated in the counter that the Stores Department in the Zonal Railway comprises of three units, viz., (i) Office of the Controller of Stores, (ii) General Stores Depot for the Zone, and (iii) Stores Depots at field level attached to Division, Workshop, Maintenance Shed, Construction Organization, etc. It is further stated in the counter that the transfer and posting of officers in the headquarters is on option basis and it is stated as follows:

“(e) Another aspect of the setting up of these offices and units is that the initial requirement of staff in various categories will be met from the process of “option transfers” of willing employees from all over the Indian Railways. The entire process of inviting and submission of option transfer applications from such employees was guided by a set of circulars which have nowhere extended their promise of the type the applicants make out to be, i.e., one of the optees have been promised that there will be 37.5% posts in East Coast Railway as existed at SER Hqs or that the offices will be organized in the new zonal railway of East Coast Railway in exactly the same manner as existed at SER Hqs. Therefore, the attempt of the applicants to link two unrelated processes in a manner that suits their selfish interest over that of the innovative and more efficient ways of organizing the





new offices as authorized by extant Board's rules and policy circulars is untenable."

Further in the counter it is stated that as a policy adopted by the Railway Board, the restructuring of the East Coast Railways Headquarters Office, Bhubaneswar and other headquarters was contemplated and steps were taken to give effect to such restructuring. While the Railway Board have decided for such reduction in the parent Railway Zonal office, it was never intended that a new Zonal Office would be staffed with proportionate number of posts and employees so as to exactly see the existing setup in the parent railway zonal offices. Further, it is stated in the counter that certain categories of staff are required, like Depot Material Supervisors (DMS), to monitor and control the functions of scrap sales, inventory control of all depots in the Zone, etc. In the above circumstances, it is stated in the counter that the apprehension now made by the applicants that if any non-ministerial staff is allowed to constitute cadre of Headquarters Office, it will affect their promotional chances, is baseless. The posts, like DMS and CI, are distinct groups and are required in the Office of the Controller of Stores and these posts are manned by personnel after getting option from them, who were working in the Railways having the prescribed qualification and pay scale. In the circumstances, it is stated in the counter that the apprehension of the



applicants that their promotional chances will be affected if any non-ministerial staff is inducted in the cadre of Headquarters Office of the Stores Department, is baseless.

5. Respondent Nos. 5 to 11 have also filed a counter refuting the pleas of the applicants. They have stated that there is no question of non-ministerial staff working in the Headquarters Office of the Stores Department encroaching upon the promotional prospect of the ministerial cadre-applicants. Formation of two separate cadres, i.e., ministerial and non-ministerial in the Headquarters Office of East Coast Railway is a conspicuous policy decision of the Railway authorities not only in the East Coast Railway but also in other new Zonal Railways. They have stated about the existence of DMS cadre in the old Railway Zones including the South Eastern Railway.

6. After having received the counters, the applicants have filed rejoinders along with which the applicants have produced Annexures A/17 to A/25 and it is stated in the rejoinder that Respondent Nos. 5 to 11 do not even possess any Engineering qualification regarding the materials used for manufacturing purposes for maximum realization of value from sale and hence in scrap sale the posts of DMS are not required. Further it is stated that the posting of Chasing Inspector in the Unit Purchase Cell in



the Headquarter Office of Stores Department, Respondent Nos. 5 to 11 have no role to play.

7. The reply to the above rejoinder has also been filed by Respondent Nos. 5 to 11. Along with the reply, the relevant portions of study report by Efficiency & Research Directorate, Railway Board, have been filed as Annexure A/9 showing that not only in the Headquarters Office of the Stores Department of the East Coast Railway, but also in other Railway Zonal Headquarters Offices there were/are sanctioned posts of non-ministerial cadres, like DMS (DSK) and CI.

8. We have heard Shri J. Sengupta, the learned counsel for the applicants and Shri Ashok Mohanty, learned Senior Standing Counsel for the Respondent-Railways and Shri P.K. Jena, the learned counsel for Intervenor-Respondent Nos. 5 to 11.

9. The case set up by the learned counsel for the applicants is that if Annexure A/1 is implemented and formation of the cadre of the Headquarters Office of Stores Department, viz., Controller of Stores Office, is done by inducting persons like Respondent Nos. 5 to 11, who are DMS, it will lead to violation of the principles laid down by the Railway Board while the order of restructuring was issued in July 1996. Further it is contended by the learned counsel for the applicants that the



duties assigned to DMS and CI are completely different from that of the ministerial staff and therefore, they cannot be included in the cadre of Headquarters Office of Stores Department. He contended that the ministerial staff of the Stores Department belong to one cadre, and DMS and CI working in Depots and Division Offices form separate cadres and therefore, the inclusion of DMS in the cadre of Headquarters Office of the Stores Department is not only against the principles laid down by the Railway Board but also detrimental to the career prospects of the ministerial staff of the Headquarters Office of the Stores Department in as much as their promotional avenues will be bleak. It was also contended by the learned counsel for the applicants that as per the Railway Board's letter dated 8.8.2002 (Anenxure 1) the ministerial cadre of Headquarters Office of the Stores Department of the East Coast Railway should be directed to be formed taking into consideration 37.5% of the money value of posts of the erstwhile South Eastern Railway.

10. In reply to the above contentions, relying on the counters filed on behalf of the Respondent-Railways and private Respondent Nos. 5 to 11, the learned counsel appearing for the Respondents submitted that none of the contentions raised in the O.A. is sustainable in the light of the letters of the Ministry of Railways by which the restructuring of the





Handquarters Office has been effected. Further, the learned counsel for the Respondents submitted that even if any optee from the ministerial level or from the Store Department has been inducted, as per Annexures A/4 and A/5 the defined duties are already given by the Railways. That apart, even if any non-ministerial staff are inducted in the cadre of the Handquarters Office of the Stores Department, it will not affect the promotional chances of the applicants as all the optees are coming from the same pay scale and the seniority of the staff in the Stores Department at the Handquarters Office is also governed by the Recruitment Rules. In the above circumstances, according to the learned counsel for the Respondents, the apprehension entertained by the applicants is baseless. Further, the learned counsel for the Respondents submitted that the restructuring of the Stores Departments at the Handquarters Office is based on the recommendation made by the Efficiency & Research Directorate, Railway Board, Ministry of Railways. Further, the learned counsel for the Respondent-Railways relies on paragraph 4 of the reply to the rejoinder in which it is stated that the implementation of the restructuring is based on only after a bipartite agreement entered between the administrative authorities and the trade unions of the employees. The

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learned counsel for the Respondent-Railways further submitted that if it is a bipartite agreement, it cannot be challenged before this Tribunal.

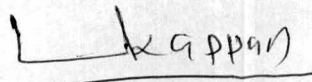
11. The main relief which the applicants claim is to give a direction to the Respondent-Railways not to include the post of Depot Material Superintendent (DMS) in the cadre of Controller of Stores Office. As per the staff structure of the Controller of Stores Office, i.e., Headquarters Office, the posts are created as per the requirement. Different duties and functions of each post have also been defined and that too, based on bipartite agreement entered into by and between the administrative authorities and trade unions. If such a restructuring is there on the basis of bipartite agreement and unless it affects the service conditions of the applicants, the applicants are not justified in challenging the restructuring order issued by the Railways while implementing Annexure A/1 letter which is based on earlier letters of the Ministry of Railways. That apart, each and every post in the Controller of Stores Office, i.e., Headquarters Office of the Stores Department, is required on the basis of work allotted to or carried on by each and every post in the cadre. The cadre structure, as has been introduced by the Railways, does not affect the service conditions of the applicants. Therefore, the interference of this Tribunal is unwarranted. The entire restructuring of



the posts in the Office of the Controller of Stores, i.e., Headquarters Office, is based on the administrative instructions or orders issued by the Railway Board. On the basis of the materials placed before us, we are of the view that as the inclusion of the DMS in the cadre of Headquarters Office in no way puts a spanner in the promotional chances of the applicants and the same being based on the policy decision of the Railway Board, there is hardly any scope for interference by this Tribunal. In the above circumstances, we are of the view that the applicants have failed to substantiate their case to have the relief claimed in the O.A.

12. In the result, the O.A. being devoid of merit is dismissed. No order as to costs.

  
(C.R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K. THANKAPPAN)  
JUDICIAL MEMBER