

13  
CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH

O.A.NOS. 800, 887 to 895, O.A.Nos. O.A.No.925 and 978 to 986 of 2005, O.A.Nos.235 and 325 to 348 of 2006, O.A.Nos.236 and 349 to 354 of 2006, O.A.Nos. 237 & 355 to 378 of 2006, O.A.No.238 and 379 to 388 of 2006

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

|                           |       |             |
|---------------------------|-------|-------------|
| Debendra Dalai and others | ..... | Applicants  |
| Vrs.                      |       |             |
| Union of India and others | ..... | Respondents |

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not? yes
- 2) Whether it be circulated to the PB,CAT or not?

(C.R.MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K.THANKAPPAN)  
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH

O.A.NOS. 800, 887 to 895, O.A.Nos. O.A.No.925 and 978 to 986 of 2005, O.A.Nos.235 and 325 to 348 of 2006, O.A.Nos.236 and 349 to 354 of 2006, O.A.Nos. 237 & 355 to 378 of 2006, O.A.No.238 and 379 to 388 of 2006

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

**O.A.Nos. 800 and 887 to 895 of 2005**

- 1) Debendra Dalai, aged about 50 years, son of Sudarsan Dalai, At/PO Jeypore, P.S.Kusalda, Dist.Mayurbhanj, Orissa (OA No.800/95)
- 2) Birendra Nanda, aged about 48 years, son of late Subha Nanda, At-Rengali, P.O.Kamarlaga, P.S.Saintala, Dist.Bolangir, Orissa (OA No.887/95)
- 3) Krushna Chandra Hati, aged about 48 years, son of Lambodara Hati, Village Badada, P.O. Lunia, P.S. Sulipada, Dist.Mayurbhanj, Orissa (OA No.888/95)
- 4) Niraba Chandra Das, aged about 51 years, son of late Pirata Das, At Padmakesharipur, P.O.Kalarahanga, P.S.Mancheswar, Dist.Khurda, Orissa (OA No.889/95)
- 5) Uma Kanta Sahu, aged about 34 years, son of Sri Gunanidhi Sahu, Vill/PO Purunagarh, P.S.Deogarh, Dist.Deogarh, Orissa (OA No.890/95)
- 6) Bideshi Naik, aged about 50 years, son of late Dali Naik, At/PO Nuagaon, P.S.Bisi, Dist.Mayurbhanj, Orissa (OA No.891/95)
- 7) Rohit Mahato, aged about 44 years, son of Banswar Mahato, At/PO Lupung, P.S.Katakamasandi, Dist.Hajaribagh, Jharkhand (OA No.892/95)
- 8) Saroj Kumar Pradhan, aged about 52 years, son of Abani Kanta Pradhan, At/PO Mohapatra Balanda, P.S. Kuchinda, Dist.Sambalpur, Orissa (OA No.893/95)
- 9) Abhimanyu Chhinchani, aged about 49 years, son of late Sobha Chhinchani, At/PO Karada Singh, P.S.Rayagarh, Dist.Gajapati, Orissa (OA No.894/95)



- 10) 10) Bangali Mahato, aged about 42 years, son of Jandari Mahato, village Pabara, P.O. Pabara, P.S.Katakamasandi, Dist.Hazaribagh, Jharkhand (OA No.895/95).....Applicants

O.A.No.925 and 978 to 986 of 2005

1. Baleswar Mahato, aged about 59 years, son of Dukhan Mahato, at present Daftary, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 13 (O.A.No.925 of 2005)
2. Alekha Ch. Behera, aged about 59 years, son of Brahmananda Behera, at present Daftary, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 13 (O.A.No.978 of 2005)
3. Bengali Rabi Das, aged about 58 eyars, son of Chetlal Rabi Das, at present Daftary, Orissa Geo Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 13 (O.A.No.979 of 2005)
4. Bisun Mahato, aged about 59 years, son of Lalu Mahato, Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar (OA No. 980 of 2005)
5. Khemlal, aged about 59 years, son of Banu Gop, Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30.(OA No.981 of 2005)
6. Tokhlal, aged about 59 years, son of Lakha Mahant, Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No.982 of 2005)
7. Jairam Behera, aged about 59 years, son of Bhabagrahi Behera, at preent Khalasi, Orissa Geo Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 13 (O.A.No.983 of 2005)
8. Dhaneswar Giri, aged about 58 years, son of Guru Dayal Giri, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 13 (O.A.No.984 of 2005)
9. Chintaman Ram, ageda bout 56 years, son of Pannu Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 13 (O.A.No.985 of 2005)
10. Rajendra Choubey, aged about 58 years, son of Munieswar Choubey, at present Guard, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 13 (O.A.No.986 of 2005) .....Applicants

O.A.Nos.235 and 325 to 348 of 2006

1. Janardan Parida, aged about 51 years, son of Bimbadhar Parida, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India,



- P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.235 of 2006)
2. Gandhori Ram, aged about 44 years, son of Daso Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.325 of 2006)
  3. Dilchand, aged about 46 years, son of Khemlal, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.326 of 2006)
  4. Bisheswar Ram, aged about 52 years, son of Kali Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.327 of 2006)
  5. Bipin Bihari Swain, aged about 44 years, son of Bhramarabara Swain, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.328 of 2006)
  6. Shyam Sundar Behura, aged about 46 years, son of Jadumani Behura, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.329 of 2006)
  7. Punit Ram, aged about 48 years, son of Phulchand Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.330 of 2006)
  8. Charan Ram, aged about 53 years, son of Jago Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.331 of 2006)
  9. Ramdev, aged about 42 years, son of Chhedi Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.332 of 2006)
  10. Bauri Bandhu Deuri, aged about 47 years, son of Gaji Dehuri, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.333 of 2006)
  11. Lambodar Majhi, aged about 50 years, son of Bati Majhi, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.334 of 2006)
  12. Arjuna Routray, aged about 43 years, son of Dibyasingh Routray, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.335 of 2006)
  13. Bhramarabara Behera, aged about 47 years, son of Sanatan Behera, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of



- India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.336 of 2006)
14. Sarbeswar Balabantaray, aged about 44 years, son of Bhramarabara Balabantaray, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.337 of 2006)
  15. Madhab Ghatwal, a ged about 48 years, son of Khagapati Ghatwal, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubeswar 30 (O.A.No.338 of 2006)
  16. Mahendra Ram, aged about 49 years, son of Shivdayal Ram, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No.339 of 2006)
  17. Mohan Ram, aged about 45 years, son of Chetlal, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (OA No. 340 of 2006)
  18. Krishna Ram, aged about 47 years, son of Chaman Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.341 of 2006)
  19. Bhagirathi Chand, aged about 55 years, son of Krushna Chand, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No. 342 of 2006)
  20. Brundaban Mohanta, aged about 52 years, son of Purusottam Mohanta, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No.343 of 2006)
  21. Mundrika Ram, aged about 47 years, son of Ganesh Ram, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No. 344 of 2006)
  22. Baldev Ram, aged about 51 years, son of Ugan Ram, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No.345 of 2006)
  23. Jairam Sahoo, aged about 46 years, son of Digambar Sahoo, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No.346 of 2006)
  24. Amrit Lal, aged about 47 years, son of Prayag Ram, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No.347 of 2006)
  25. Jagdev Prasad Mehta, aged about 50 years, son of Phirangi Mehta, at present Khalasi, Orissa Geo Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapalli, Bhubaneswar 13 (O.A.No.348 of 2006)
- ..... Applicants

O.A.Nos.236 and 349 to 354 of 2006

1. Mahendra Sahoo, aged about 52 years, son of Digambar Sahoo, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India,



P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.236 of 2006)

2. Somar Sisa, aged about 53 years, son of Budra Sisa, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.349 of 2006)
3. Akrura Majhi, aged about 45 years, son of Mahadev Majhi, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.350 of 2006)
4. Bidyadhara Dalai, aged about 45 years, son of Ranka Dalai, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.351 of 2006)
5. Surendra Beheera, aged about 53 years, son of Dhoba Behera, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.352 of 2006)
6. Hari Bandhu Behera, aged about 58 years, son of Touli Behera, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.353 of 2006)
7. Sankar Malia, aged about 48 years, son of Iswar Malia, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.354 of 2006)

.....Applicants

O.A.Nos. 237 & 355 to 378 of 2006

1. Nrusingha Charan Nayak, aged about 45 years, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.237 of 2006)
2. Barju Hembram, aged about 52 years, son of Ramjit Hembram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.355 of 2006)
3. Kanta Dalai, aged about 57 years, son of Nidhi Dalai, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.356 of 2006)
4. Sahadev Mahto, aged about 47 years, son of Pannu Mahto, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.357 of 2006)

5. Moti Ram, aged about 45 years, son of Dharam Nath, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.358 of 2006)
6. Parameshwar, aged about 49 years, son of Ruplal, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.359 of 2006)
7. Padmanava Bhoi, aged about 52 years, son of Bali Bhoi, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.360 of 2006)
8. Chandrasekhar Setha, aged about 57 years, son of Satyabadi Setha, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.361 of 2006)
9. Jairam Barik, aged about 53 years, son of Sarat Chandra Barik, at present Technical Labour, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.362 of 2006)
10. Jeema Ram, aged about 56 years, son of Deba Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.363 of 2006)
11. Satya Prakash Parida, aged about 47 years, son of Gopinath Parida, at present Technical Labour, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.364 of 2006)
12. Sachidananda Pattanaik, aged about 54 years, son of Laxmidhar Mohanty, at present Technical Labour, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.365 of 2006)
13. Mohan Nayak, aged about 51 years, son of Braja Bandhu Nayak, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.366 of 2006)
14. Pramod Kumar Pattanaik, aged about 48 years, son of Sarat Chandra Pattanaik, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.367 of 2006)
15. Moti Ram, aged about 53 years, son of Basudeo Mahto, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, Khandagiri, Bhubaneswar 30 (O.A.No.368 of 2006)
16. Dharmananda Prusty, aged about 53 years, son of Krupasindhu Prusty, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.369 of 2006)

17. Abhaya Charan Dalai, aged about 43 years, son of Udaya Nath Dalai, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No.370 of 2006)
18. Nilamani Rout, aged about 52 years, son of Krushan Chandra Rout, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.371 of 2006)
19. Badri Mahato, aged about 51 years, son of Pannu Mahato, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 30 (O.A.No.372 of 2006)
20. Dilchand Mahato, aged about 58 years, son of Khidhor Mahato, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.373 of 2006)
21. Jayashwar Ram, aged about 54 years, son of Jitan Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.374 of 2006)
22. Bisheshwar Ram, aged about 50 years, son of Chaman, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.375 of 2006)
23. Kahnu Charan Bhoi, aged about 50 years, son of Satyabadi Bhoi, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.376 of 2006)
24. Abhimanyu Naik, aged about 53 years, son of Golakha Naik, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.377 of 2006)
25. Panchanan Pattanaik, aged about 51 years, son of late Madhaba Pattanaik, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.378 of 2006) .....Applicants

In O.A.No.238 and 379 to 388 of 2006

1. Kailash Chandra Dash, aged about 48 years, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.238 of 2006)
2. Somar Mahto, aged about 50 years, son of Tokal Mahto, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.379 of 2006)





3. Madan Mohan Kundu, aged about 51 years, son of late Maguni Kundu, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.380 of 2006)
  4. Kalandi Charan Malik, aged about 44 years, son of late Nath Mallik, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.381 of 2006)
  5. Dayanidhi Das, aged about 49 years, son of Dhaba Das, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.382 of 2006)
  6. Degan Ram, aged about 51 years, son of Ram Eshwar, at present Khalasi, Survey of India, At/PO/PS Khandagiri, Bhubaneswar 30 (O.A.No. 383 of 2006)
  7. Sandhyarani Tripathy, aged about 44 years, wife of Subash Chandra Tripathy, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.384 of 2006)
  8. Muralidhar Pattnaik, aged about 44 years, son of Madhab Pattnaik, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.385 of 2006)
  9. Hiranman Ram, aged about 55 years, son of Sh. Pannu, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.386 of 2006)
  10. Badrinath, aged about 59 years, son of Raman Ram, at present Khalasi, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.387 of 2006)
  11. Sanyasi Naik, aged about 53 years, son of Laba Nayak, at present Technical Labour, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Nayapali, Bhubaneswar 13 (O.A.No.332 of 2006)
- ..... Applicants

Advocates for the applicants

- M/s K.C.Kanungo, Chitra Padhi & S.Beura.

Vrs.

Union of India represented through

1. Secretary, Government of India, Ministry of Science & Technology, New Delhi.
2. Surveyor General, Survey of India, Block No.B, Hati Barkala Estate, Dehradun, Uttaranchal.

8

3. Director, Orissa Geo-Spatial Data Centre, Survey of India, P.O. R.R.Laboratory, Bhubaneswar 751013.....Respondents

Advocates for the Respondents - Mr.U.B.Mohapatra, SCGSC in OA Nos. 238 and 379 to 388 of 2006, O.A.Nos. 237 and 355 to 378 of 2006, O.A.Nos.236 and 349 to 354 of 2006, O.A.Nos. 925 and 978 to 986 of 2005, Mr.B.Dash, ACGSC in OA Nos. 235 and 325 to 348 of 2006 and O.A.Nos. 800 and 887 to 895 of 2005)

ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

Since the matter to be adjudicated and decision taken arises out of the same and similar question of facts based on the circular/order No.438 dated 2.4.1955, all the above mentioned O.As., which were heard analogous, are being disposed of by this common order notwithstanding the fact that the impugned orders rejecting the prayer for regularization are of different dates. In the circumstances, for the sake of clarity and convenience, the facts as brought out in OA No. 800 of 2005 and 887 to 895 of 2005 are being dealt and referred to.

2. This is the second round of litigation by the applicants S/Shree Debendra Dalai and others in OA Nos. 800 of 2005 and 887 to 889 of 2005 before this Tribunal. Earlier the applicant along with 9 others had moved this Tribunal in O.A.No. 507 of 2005 for direction to the Respondents to ante-date their date of regularization as Khalasi in terms of the circular/order No.438, dated 2.4.1955. This Tribunal, as per



order dated 13.6.2005, observing therein that the applicants had not approached the authorities in the right earnest for redressal of their grievances, disposed of the matter at the admission stage itself giving liberty to the applicants to represent their grievances before the authorities and directing the Respondent-Department, in case such representations are filed by the applicants, to examine their grievances and pass necessary consequential orders in accordance with rules within a stipulated time. The applicants, as revealed from the records, preferred representations based on the above order of the Tribunal and the authorities having rejected their prayer by virtue of Annexure A/7 order dated 29.7.2005, the applicants have challenged the same in the present O.As. It is in this background, the applicants have sought for the following relief:

- “i. To issue an appropriate order quashing the order of the Respondents dtd.29.07.2005 (Annexure A/7) on the ground that it is a non-speaking order.

AND

- ii. Be further pleased to issue a direction to the Respondents for causing production of relevant records evidencing the fact that appropriate action was taken to offer regular appointment to the applicants as and when vacancies were caused in the circle in the grade of regular Khalasis consequent upon superannuation, transfer, promotion and death, etc.

AND

- iii. Be further pleased to issue a direction to the Respondents to make a detailed review of the cases of the applicants and to communicate the results thereof explaining the reasons for the inordinate delay ranging



from 8 years to 11 years in bringing the applicants to the Regular Establishment.

AND

- iv. Be further pleased to issue a direction to the Respondents of financial upgradation to confer the benefits under the A.C.P.Scheme and pensionary benefits as contemplated in Govt. of India, Dept. of Per. & Trg. O.M.No.12011/1/85-Estts.(C) dated 10.03.1986, according to which half the service paid from contingencies, followed by regular appointment should count for Terminal Retirement Benefits;"

It is the case of the applicants that they were initially recruited as Contingent Khalasis in the South Eastern Circle of Survey of India, Bhubaneswar and subsequently were appointed as Regular Khalasis on various dates. According to the applicants, per circular/order No. 438 dated 2.4.1955, after rendering continuous service of at least 2 years or 2 field seasons in the contingency paid establishment, an individual would be eligible for transfer to regular establishment. Keeping this in view, according to the applicants, they should be deemed to have been regularized strictly as per the instructions contained in the circular No.438 so that they should not be deprived of the bona fide service and pensionary benefits. The applicants have urged that they were recruited as contingent Khalasis ranging from 1975 to 1982 and according to the circular order, as referred to above, they should have been transferred to temporary establishment after continuous service of at least 2 years or 2 field seasons in the contingency paid establishment, but in their cases delay of about 8 to 11 years has been caused, which is arbitrary and





capricious and thereby the applicants have been deprived of the benefits of ACP and consequential benefits arising out of such regularization. With these submissions the applicants have prayed for the relief as referred to above.

3. The Respondent-Department, in pursuance of the notice issued by this Tribunal, have filed their counter contesting the O.As. They have, at the outset, submitted that the O.A. is time barred and as such is not maintainable. They have stated that the applicants were brought over to regular establishment as and when vacancies arose. Further, it has been submitted that in the Department two types of Khalasis, viz., (i) Regular Khalasi, and (ii) Contingent Khalasi are employed. So far as Regular Khalasi is concerned, its sanctioned strength is fixed whereas the Contingent Khalasis are appointed as and when need arises. They have stated that Contingent Khalasis are eligible to be transferred to regular establishment after two years or two field seasons subject to availability of vacancies in the regular establishment. On the above grounds, the Respondents have stated that the applicants are not entitled to ante-date their regularization and O.As. being devoid of merit, are liable to be dismissed.

4. The applicants have filed rejoinder to the counter submitting that the impugned order could not be said a speaking one as the same is silent about the prejudice caused to the applicants affecting their

OB

pensionary and other service benefits owing to inordinate delay in regularization of service. With regard to the plea of limitation as raised by the Respondents, it has been submitted that the applicants are poor employees holding the post of Khalasis, Group D and as such limitation should not stand as a bar. In support of their contentions, the applicants have placed reliance on O.A.No.325 of 2002 ( Purna Chandra Sahoo v. Union of India) wherein this Tribunal having regard to the fact that the applicant therein was an employee of a medium grade in the Railways and being busy in his official duties, he might not have found time to take legal advice, condoned delay. Besides, he has also placed reliance on a decision of the Hon'ble Apex Court in Dilbag Rai Jerry v. Union of India and another (AIR 1974 SC 130). To the plea of the Respondents that the applicants were regularized as and when vacancies arose, the applicants have submitted that it cannot be said that there were no vacancies during the periods between the dates when they became entitled for being transferred to regular establishment after continuous service of at least 2 years or 2 field seasons and the dates when actually they were transferred to regular establishment in as much as the Respondent –Department must have experienced superannuation of regular Khalasis, promotion of regular Khalasis, transfer of regular Khalasi to any other circle, death of any regular Khalasi, creation of any vacancy in the grade of regular Khalasis due to increase in the volume of work and for any other reason

and therefore, the statement made by the Respondent in that behalf without reviewing all these aspects of the matter, should be abrogated.

5. We have heard the learned counsel for the parties and perused the materials on record. Having regard to the rival submissions, the following points emerge to be decided:

- (a) Whether the O.As. are barred by limitation;
- (b) Whether Annexure A/7 impugned order is a non-speaking order;
- (c) Whether the applicants have not been brought over to regular establishment despite there being vacancies as per circular No. 438, dated 2.4.1955 and thereby injustice has been meted out to them.

6. On the point of limitation, as raised by the Respondents, Section 21(3) of the Administrative Tribunals Act, 1985, which is germane to the issue, reads as under:

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b), of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

In this context, Rule 8(4) of the CAT (Procedure) Rules, 1987, reads as



under:

“(4) Where the applicant seeks condonation of delay, he shall file a separate application supported by an affidavit.”

It is the case of the applicants in the rejoinders that the applicants being poor Group D Khalasis could not agitate their grievances at the appropriate time. In order to buttress their contention, they have relied on the order of this Tribunal in OA No.325 of 2002 and a decision of the Hon'ble Supreme Court (cited supra). But the fact remains, the applicants have made a passive statement only in the rejoinder to the counter, without following the provisions of the Administrative Tribunals Act, 1985 and the CAT (Procedure) Rules, 1987, as quoted above. In other words, the applicants have not filed petition for condonation of delay adducing convincing reasons as to what prevented them from approaching this Tribunal in the nick of the time, i.e., two years after rendering continuous service as contingent Khalasi, as according to them they attained eligibility for being transferred to regular establishment. We also make it clear that the rejection of prayer of the applicants as per Annexure A/7 dated 29.7.2005 cannot give rise to a fresh cause of action nor can it revive the same which had arisen, according to the applicants, in the years ranging from 1977 to 1984, even though Annexure A/7 has been issued in pursuance of the direction of this Tribunal to dispose of the representation in the earlier O.A. No.507 of 2005, and the liability of the





29/ applicants to explain delay cannot be brushed aside on the basis of bland submission that the applicants are poor Group D Khalasis who could not agitate their grievances at the appropriate time. Hence, the reliance placed by the applicants on the decision of this Bench as well as the decision of the Hon'ble Supreme Court is of no avail and we hold the O.As. barred by limitation.

7. In order to determine as to whether the impugned order at Annexure A/7 is a speaking one or otherwise, it is indispensable to at first go through the representation preferred by the applicants. By Annexure A/6 representation, the applicant has prayed to the authorities to pass appropriate orders, keeping in view the circular No. 438 dated 2.4.1955 on the grounds that his belated transfer to regular establishment has caused prejudice on the pensionary and other service benefits. The Respondent-Department have rejected the prayer answering as to how the applicant could not be brought over to regular establishment as per circular No. 438 dated 2.4.1955, the reason being that there was no vacancy. In our considered view, the Respondents have precisely replied to the representations of the applicants. As regards the plea of the applicant that there being no reason assigned by the respondents on the adverse effect on pensionary benefits due to belated regularization, the order as such is not a speaking order, does not hold any water, in as much as the applicants' belated regularization was due to non-availability

DD

of vacancies and whatever effect would have it is based on the cause which is consequential only. Therefore, the effect being conspicuous, there was nothing left to mention on this by the Respondents. If so, we cannot but hold that a specific or precise order/reply meeting the point in issue is quite enough to be regarded as a speaking order even though its natural or consequential effect on a subsidiary grievance is silent. Moreover, it is to be noted that even assuming that the impugned order is not a speaking one and in effect it is quashed, the matter would not improve from good to better as by filing a detailed counter, the Respondents have left open the matter for taking a wider view. Viewed from this, the plea of the applicants that the impugned order at Annexure A/7 is not a speaking order, is rejected.

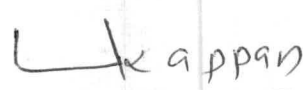
8. With regard to the entitlement of the applicants to be brought over to regular establishment after continuous service of two years or two field seasons as Casual Khalasis, admittedly the applicants were recruited as such during the period from 1975 to 1982. It is an admitted fact that under the circular No. 438 dated 2.4.1955, they were entitled to be brought over to regular establishment after two years therefrom. Even assuming that due to death, retirement, promotion, creation, etc., as submitted by the applicants, vacancies had arisen prior to the dates when they could be brought over to regular establishment, we are of the view that those are the matters of oblivion and in the meantime much water has

99

3/ flown under the bridge. Therefore, it is quite inconceivable that the Tribunal, in the facts and circumstances of the case, should rise to the occasion after about more than two decades when the cause of action had arisen. This apart, it is the case of the Respondent-Department that the applicants were brought over to regular establishment when the vacancies in regular establishment arose. In other words, there were no vacancies when the applicants became eligible for regularization. The applicants have also not been able to establish that despite there being vacancies when they attained the eligibility for regularization, they were not regularized and thus, the applicants have not substantiated by producing any material that injustice has indeed been meted out to them.

9. Having answered the points in issue in the negative, we hold that the applicants have not been able to make out any case for the relief sought for. Accordingly, all the above mentioned O.As. being devoid of merit, are dismissed. No costs.

  
(C.R. MOHAPATRA)  
ADMINISTRATIVE MEMBER

  
(K. THANKAPPAN)  
JUDICIAL MEMBER