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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A.Nos. 434, 435 and 436 of 2006
Cuttack, this the 13th day of October, 2009

K.Nagaraju (in OA 434/06)
B.Bhaskara Rao (in OA 435/2006)
M.Bhaskara Rao (in OA No.436/2006).....
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

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH

O.A.Nos. 434, 435 and 436 of 2006

Cuttack, this the 13th day of October, 2009

CORAM:

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

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

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In OA No.434 of 2006:

Sri K.Nagaraju, aged about 54 years, son of late K.Surnarayana, working for gain as Mason Gr.III under Sr.Section Electrical Engineer (P), E.Co. Railway, Khurda Road, at present residing at Railway Qr.No.A-140/E, Loco Colony, Khurda Road, P.O.Jatni, Dist.Khurda, PIN 752050

In OA No.435 of 2006:

Sri B.Bhaskar Rao, aged about 44 years, son of late B.Appa Rao, working for gain as Lineman-cum-Wireman Gr.II under Sr.Section Electrical Engineer (P), E.Co.Railway, Khurda Road, at present residing at Railway Qr.No. 737/A, Retang Colony, Khurda Road, P.O.Jatni, Dist. Khurda, PIN 752050

In OA No. 436 of 2006:

Sri M.Bhaskar Rao, aged about 53 years, son of late Raja Rao, working for gain as Lineman-cum-Wireman Gr.II under Sr.Section Engineer (Electrical), E.Co.Railway, Palasa, at present residing at Railway Qr.No. 150/2, Railway Colony, Palasa, P.O.Kasibugga, Dist.Srikakulam, PIN 532222
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Applicants

Advocate for the applicants

- Mr.Achintya Das

Vrs.

In all the cases:

1. Union of India service through General Manager, E.Co.Railway, Chandrasekharpur, Bhubaneswar.
2. Chief Administrative Officer (Construction), E.Co.Railway, Chandrasekharpur, Bhubaneswar.



3. Chief Personnel Officer, E.Co.Railway, Chandrasekharpur, Bhubaneswar, PIN 751023
4. Divisional Railway Manager, E.Co.Railway, Khurda Road, P.O.Jatni, Dist. Khurda, PIN 752050
5. Sr.Divisional Personnel Officer, E.Co.Railway, Khurda, Khurda Road, P.O.Jatni, Dist. Khurda, PIN 752050Respondents

Advocate for Respondents - Mr.B.B.Patnaik

ORDER

JUSTICE K.THANKAPPAN, MEMBER(J):

Since all the Original Applications involve common questions of law and fact, these are disposed of by this common order.

2. The applicant in OA No. 434 of 2006 was promoted to the post of Mason, Grade III, under the 60% quota earmarked for PCR posts, as per Annexure A/3 order dated 19.4.1988. The applicant in OA No. 435 of 2006 was promoted to the post of Fitter, Grade II under the said quota as per Annexure A/4 order dated 1.12.1988. The applicant in OA No. 436 of 2006 was promoted to the post of Lineman, Grade III, as per the order dated 13.2.1990. These promotions of the applicant took place in the Construction Organization of the erstwhile South Eastern Railway and the promotion orders were issued by the Dy.Chief Electrical Engineer (C) South Eastern Railway, Visakhapatnam. By subsequent orders, the promotions of the applicants were confirmed by the authorities. However, by Annexure A/1 common order dated 25.3.2006, the applicants were reverted to the post of Khalasi Helper, which is a lower

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grade than Mason, Gr.III, Fitter Gr.II and Lineman, Gr.III, without assigning any reason, except saying that they became surplus in the Construction Organization. Aggrieved by such decision taken by the Railways, the applicants have approached this Tribunal. When the O.As. came up for admission, the Tribunal ordered stay of operation of the impugned order or rather ordered to maintain status quo of the applicants.

3. The O.As. were admitted and notices ordered to the Respondents. In pursuance of the notices, on behalf of the Respondents separate counters have been filed taking the stand that the applicants were working against PCR posts in the Construction Organization as Khalasi Helper and as per the rules of promotion to the posts of Mason, etc., 60% of such posts were earmarked for accommodating PCR Khalasi Helpers. However, when it was found that absorption/promotion of the applicants was beyond the quota earmarked for the persons like the applicants and similarly placed person, the Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, issued Annexure A/1 order reverting the applicants to the lower grade of Khalasi Helper. The Respondents have submitted that in the facts and circumstances of the case, their action is justifiable.

4. We heard Shri Achintya Das, the learned counsel for the applicants and Shri B.B.Patnaik, the learned Panel Counsel (Railways) and perused all the records placed before us.

5. Admittedly, the applicants were promoted to the higher grade on regular basis and such promotion was confirmed by the Respondents-authorities. If so, the present impugned order has to be justified with reason that the promotion of the applicant is beyond the 60% quota earmarked for PCR Khalasi Helpers. But on going through the counter affidavits, we do not find anything to show that the Respondent-Railways have reviewed the total vacancy position so as to take a view that the applicants and similarly placed persons were promoted beyond the quota earmarked for them and thus they became surplus. No material has been placed before this Tribunal either along with the counters or at any time subsequent to the filing of the counters to show that the promotion of the applicants was beyond the quota of 60% and that the applicants became surplus. Even on the principle of equity, the applicants should have been given opportunity to show with materials that they are not rendered surplus. In the above circumstances, we are of the view that the interim orders passed by this Tribunal, while admitting the O.As., should continue until the Railways consider the cases of the applicants in the light of this order. However, it is directed that the Respondents shall take immediate steps to review the vacancy position and the earmarked quota available to PCR Khalasi Helpers and take a decision in the matter. This exercise shall be completed within a reasonable time, at any rate within three months from the date of receipt

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of copy of this order. Till such a decision is taken, the Annexure A/1 order shall be kept in abeyance. Ordered accordingly.

6. With the above observation and direction, all the Original Applications are disposed of. No costs.

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(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

Kappan
(K.THANKAPPAN)
JUDICIAL MEMBER