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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 511 of 2007

D.Bhagabati Rao and others ...Applicants

-Versus-

Union of India & Ors. Respondents

1. Order dated: the 21st January, 2011.

C O R A M

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

A N D

THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

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10(ten) Applicants by fling this Original Application under section 19 of the A.T. Act, 1985 jointly have prayed to quash the selection and appointment of Respondents 6 to 20 in Annexure-A/1, A/2 & A/3 and to direct the Respondents to promote the applicants to Technician Gr.III against 50% Departmental Promotion Quota as per para 159 (1), Indian Railway Establishment Manual Vol-I, 1989 with effect from the date on which the Respondents 6 to 20 were selected and appointed to the said post with all consequential service and financial benefits.

Respondents filed their counter contesting the case of the Applicant and *inter alia* stating that due to introduction of new AC Coaches and extension of Train service in Khurda Road Division, the primary and secondary maintenance work of AC Coaches have increased. The department has faced a lot of problem to manage the maintenance work owing to inadequate staff in AC group. The proposals of creation of posts in AC and Train Light Group have been processed for sanction of

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competent authority at that time. The posting of 15 technicians Gr.III through RRB was approved by the competent authority. Since no vacant post was available in AC group at that time, 15 vacant Technician III posts of power Group have been temporarily shifted to AC group as per the proposal of the competent authority under Annexure-R/1 and R/2. After completion of their job training for six months they have been posted against 15 vacant posts of power group permanently shifting to AC Group vide order dated 11.7.07 (R/3). After posting of 15 RRB candidates, applicants became aggrieved and have filed this OA alleging that the Railway administration has committed gross negligence by posting Tech.III posts in AC section of Elect. (G) Department against direct recruitment quota by acting against the legitimate expectation of the departmental candidates which is not correct. Accordingly, Respondents have prayed for dismissal of this OA.


Heard Learned Counsel appearing for the Respondents and perused the averments made in the pleadings and materials placed in support thereof by both sides.

By producing copy of the letter dated 13.1.2011 Respondents' counsel has brought to our notice that meanwhile out of ten seven applicants have been promoted to the post of Tech. III and as there is no vacancy the remaining three could not be accommodated. Mr.Das, Learned Counsel for the Applicants has stated that there are vacancy in the grade of Tech. Gr.III (AC) and as the left out Applicants are

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otherwise eligible the Respondents be directed to consider the case of the left out applicants for promotion to the said grade. No doubt it is true that there are several constraints for filling up of the vacancy in the Government. Merely because vacancy is available one cannot command or the Court/Tribunal cannot direct for filling up of the said post. However, without going to that aspect of the matter, this Original Application is disposed of granting liberty to the Respondents to consider the case of three left out candidates for promotion if vacancy in the Tech. Gr.III is available, the applicants are otherwise eligible, and there is a need to fill up the said post. No costs.


(A.K.PATNAIK)
Member (Judl.)


(C.R.MOHAPATRA)
Member (Admn.)