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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO.756 OF 2010

Cuttack the 08th day of March, 2013

CORAM

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

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

1. Prafulla Kumar Sahoo,
aged about 56 years,
S/o. Late Bhaskar Sahoo,
Resident of Vill-Mudugula,
Po-Namaro, P.S-Kakatpur, Dist-Puri.
 2. Narahari Naik,
aged about 56 years,
S/o. Hatakishore Naik,
Resident of Vill-Mudugula,
Po-Namaro, P.S-Kakatpur, Dist-Puri.
 3. Ajaya Kumar Senapati,
aged about 55 years,
S/o. Late Kunja Bihari Senapati,
Vill-Kendrapati, Po-Namaro,
P.S-Kakatpur, Dist-Puri.
 4. Prahallad Sahoo,
aged about 55 years,
S/o. Late Kashinath Sahoo,
Vill-Mudugula, Po-Namaro,
P.S-Kakatpur, Dist-Puri.
 5. Alekh Baral,
aged about 56 years,
S/o. Late Bhagabat Baral,
Vill-Jiunty, Po-Kholala,
Dist-Puri.
 6. Rama Chandra Badajena,
aged about 55 years,
S/o. Late Raghunath Badajena,
Vill-Damodarpur, Po-Sarkantara,
Dist-Khurda.
 7. Harihara Sahoo,
aged about 55 years,
S/o. Late Mushi Sahoo,
Vill-Mitaipur, Po-Bantegaon,
Dist-Puri.
 8. Babu Biswal,
aged about 55 years,
S/o. Karunakar Biswal,
Vill-Ratanpur, Po-Udaypur,
Dist-Puri.
 9. Gorachand Pattnayak,
aged about 56 years,
S/o. Late Bhikari Pattnayak,
Vill-Kalupada, Po-Matari,
Ps-Delanga, Dist-Puri.
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10. Gopinath Pandia,
aged about 55 years,
S/o. Late Manguli Pandia,
At-Padmapur, Po-Bhimpur,
Dist-Khurda.
11. Pradeep Kumar Mangaraj,
aged about 57 years,
S/o. Late Balabhadra Mangaraj,
At-Ankoi, Po-Motari,
Ps-Delanga, Dist-Puri.
12. Bimbadhar Mansingh,
aged about 55 years,
S/o. Kelu Mansingh,
At-Ankoi, Po-Motari,
Ps-Delanga, Dist-Puri.
13. Ramachandra Routray,
aged about 56 years,
S/o. Radheshyam Routray,
At-Sarh Kalupada, Po-Motari,
Ps-Delanga, Dist-Puri.
14. Sidheswar Behera,
aged about 55 years,
S/o. Late Jayee Behera,
At-Kendrapati, Po-Namaro
Ps-Kakatpur, Dist-Puri.
15. Upendra Muduli,
aged about 55 years,
S/o. Late Gouranga Muduli,
At-Balicadala, Po-Bhiripur,
Dist-Puri.
16. Trilochan Sahoo,
aged about 56 years,
S/o. Late Natabar Sahoo,
At-Souri, Po-Birianga,
Dist-Puri.
17. Sarat Kumar Mohapatra,
aged about 55 years,
S/o. Narasingh Mohapatra,
At-Panchupalli, Po-Retanga,
Dist-Khurda.
18. Raghunath Pani,
aged about 56 years,
S/o. Late Sankar Pani,
At-Saripur, Po-Udaypur,
Dist-Puri.
19. Rama Chandra Barisal,
aged about 55 years,
S/o. Mahendra Barisal,
At/Po-Ratanga, Dist-Puri.



20. Basanta Kumar Rana,
aged about 55 years,
S/o. Rankanidhi Rana,
At/Po-Pugusahi,
Dist-Khurda.
21. Pradyumna Kumar Mohapatra,
aged about 55 years,
S/o. Bighneswar Mohapatra,
At-Badhakhandi, Po-Sisola
Dist-Khurda.
22. Khtra Mohan Acharya,
aged about 56 years,
S/o. Lata Jambeswar Acharya,
At-Chainpur, Po-Motari,
Ps-Delanga, Dist-Puri.

...Applicants

(Advocates: Mr. H.K. Rout)

VERSUS

Union of India Represented through

1. General Manager,
East Coast Railway,
At/Po-Chandrasekharapur,
Bhubaneswar,
Dist-Khurda.
2. Divisional Railway Manager,
Khurda Road Division,
East Coast Railway,
At/PO-Khurda Road,
Ps-Jatni, Dist-Khurda.
3. Sr. Divisional Personal Officer,
Khurda Road Division,
East Coast Railway,
At/PO-Khurda Road,
Ps-Jatni, Dist-Khurda.
4. Divisional Traffic Inspector(C),
Khurda Road Division,
East Coast Railway,
At/PO-Khurda Road,
Ps-Jatni, Dist-Khurda.
5. Divisional Operating Superintendnt,
Khurda Road Division,
East Coast Railway,
At/PO-Khurda Road,
Ps-Jatni, Dist-Khurda.
6. Sr. Divisional Operation Manager,
Khurda Road Division,
East Coast Railway,
At/PO-Khurda Road,
Ps-Jatni, Dist-Khurda.

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7. Assistant Operations Manager (Plg),
Office of the Divisional Transportation Inspector,
Khurda Road Division,
East Coast Railway,
At/PO-Khurda Road,
Ps-Jatni, Dist-Khurda.
8. The Station Master,
Gurudijhatia Railway Station,
At/Po- Gurudijhatia
Dist-Puri.
9. The Station Superintendent,
Malati Patpur Railway Station,
At/Po-Malatipatpur, Dist-Puri.
10. The Deputy Station Superintendent,
Motari Railway Station,
AtPo-Motari, Ps-Delanga,
Dist-Puri.

... Respondents

(Advocate: Mr. T. Rath)

ORDER(Oral)

MR. R. C. MISRA, MEMBER (A)

The applicants in this case i.e., one Sri Prafulla Kumar Sahoo and 21 others have come up with a prayer for giving a direction to the Respondent No.3 i.e., Divisional Railway Manager, East Coast Railway, Khurda Road Division, to absorb them into permanent Group 'D' posts based upon their claim that they have been rendering almost 17 years of service as substitutes in the Railway Organisation. From the averments made by the applicants it has come out that when their repeated representations to the Respondents failed to elicit any positive response they had filed O.A. No.148/2000 before this Tribunal agitating their claim. This Tribunal after hearing both Counsels for the applicants and Respondents in that case passed an order on 14.05.2002 as quoted below:-

“As a consequence this Original Application is allowed. The Respondents are directed to closely examine the case of the Applicants in order to give them substitute employments and to take them to permanent Group-D posts. The case of the Applicants should receive due consideration within the outer limit of 120 days from the date of receipt of the copy of this order. In the result this Original Application is allowed. No costs.”

After the order of this Tribunal was passed the Respondents approached the Hon'ble High Court in W.P. (C) No.6475/2002. In the



above Writ Petition the Hon'ble High Court of Orissa has passed an order dated 29.07.2008 which is quoted below:

"In view of the above and considering the fact that the Tribunal has not given any positive direction to give employment to the opp.Parties as substitutes or take them to Group-D posts, we dispose of this Writ Application with the following directions. The order of the Tribunal be implemented subject to condition that the opp. Parties shall produce the records before the petitioners to show that they had been engaged as substitute and their names were registered in the Register maintained for the substitutes and only when such evidence is produced before the petitioners, their cases shall be considered in terms of the judgement of the Tribunal."

Thereafter the Respondents passed a speaking order in pursuance of the directions of the Hon'ble High Court of Orissa in which they have come to a finding which is also quoted below:-

"After verification of the available records, certification of the concerned Unit In-Charges & existing old records, it is revealed that this case pertains to 1972 to 79. The old records of such Stations & D.T.I Office are not available. No evidential documents at the concerned working Units are available & it is not permissible as per Estt. Srl. No.90/99 to preserve the old records of 1972 to till 2009. The genuiness of enclosed Xerox copies of the engagement of Applicants could not be proved."

In view of these findings they have rejected the claim of the applicants regarding their engagement as substitutes in the Railway Organisation. Against this backdrop the applicants have challenged this speaking order and approached this Tribunal for relief.

3. The Respondents in the counter affidavit have pleaded that the direction of the Hon'ble High Court of Orissa was that the applicants should produce the records before the Respondents as evidence of the fact that they were engaged as substitutes and once this evidence is produced their cases will be considered in terms of the judgement of this Tribunal in the O.A. quoted above. The applicants had produced xerox copies of their working certificates (23 in numbers) before the Respondents. An inquiry was caused by the Railway Authority into the genuiness of the documents produced by the applicants and the Inquiry Officer after verifying the records and registers at various places could not come across any such

records or documents in favour of the applicants. In fact the records pertaining to the year 1972-79 were not available. Based upon this inquiry report the Respondent No.3 in this O.A. passed a speaking order dated 21.10.2009 which is at Annexure-A/5 and communicated to this to all the applicants.

4. It has been further brought to our notice in the counter affidavit that in the meantime the applicants filed a Contempt Petition bearing No.1128/09 arising out of W.P.(C) No.6475/2002 before the Hon'ble High Court of Orissa alleging non implementation of the directions issued by the Hon'ble High Court. After hearing the parties the Hon'ble High Court dropped the said Contempt Proceedings vide their order dated 10.02.2010. Based upon this fact as well as on the merits of the representation made by the applicants the Respondents have submitted that this Original Application is devoid of merit and liable to be dismissed.

5. We have heard the Ld. Counsel for both parties and also perused the records in this case. In O.A. No.148/2000 in which the case of the applicants was first agitated, this Tribunal vide order dated 14.05.2002 directed the Respondents to closely examine the case of the applicants so as to give them substitute employment and take them to permanent Group 'D' posts. Subsequently, in the W.P.(C) No.6475/2002 filed by the Railway authorities, the Hon'ble High Court of Orissa in their order dated 29.07.2008 directed that the order of this Tribunal should be implemented subject to the condition that the present applicants shall produce records before the present Respondents to show that they had been engaged as substitutes and their names were registered in the register maintained for the substitutes and only when such evidence was produced before the present Respondents their cases should be considered in terms of the judgement of the Tribunal. In pursuance of the direction of the Hon'ble High Court of Orissa the Railway authorities passed a speaking order dated 21.10.09 in which they have rejected the claims of the present applicants. The Ld. Counsel for the Respondents has brought before us the fact that the present applicants had moved a petition of Contempt in the Hon'ble High Court of Orissa alleging non implementation of their directions. They have submitted a copy of the orders of the Hon'ble High Court dated 10.02.2010.

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The operative part of the order of the Hon'ble High Court is quoted below:-

“Though it was contended by the Learned Counsel for the petitioners that there has been non-compliance of the said order, we find from the show cause reply and the documents attached thereto that there has been no violation of the order of this Court.

Accordingly the contempt petition is dropped.”

6. The Hon'ble High Court of Orissa in W.P. (C) No.6457/2002 had modified the orders of the Tribunal in O.A. No.148/2000 and directed the Railway authorities to implement the orders of the Tribunal. In obedience to the orders of the Hon'ble High Court of Orissa the present Respondents i.e., Railway Authorities have also considered the matter and passed a speaking order. The present applicants had also approached the Hon'ble High Court of Orissa with a Contempt Petition alleging that the directions of the Hon'ble High Court have not been carried out. On considering the prayer as well as the show cause reply given by the alleged contemnors in that case the Hon'ble High Court has dropped the Contempt Petition. Therefore, it is quite evident that the direction of the Hon'ble High Court was duly complied with by the present Respondents i.e., the Railway authorities and Hon'ble High Court has found no ground for contempt. In view of the above facts this Tribunal does not find any basis for further interference in this case. The O.A. is accordingly dismissed.

(R.C. MISRA) 
MEMBER(A)


(A.K. PATNAIK)
MEMBER (J)