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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No. 260/0012 of 2016  
Cuttack, this the 20<sup>th</sup> day of January, 2016

**CORAM**

**HON'BLE SHRI A.K. PATNAIK, MEMBER (JUDL.)**  
**HON'BLE SHRI R.C.MISRA, MEMBER (ADMN.)**

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1. Ashok Kumar Nayak,  
aged about 29 years,  
S/o Sadasiba Nayak,  
At- Qtrs. No. A-203, Sec-II, NALCO Township,  
PO. Damanjodi, Dist- Koraput  
Presently working as Skill Development Trainee.
2. Dhanurjaya Nayak,  
aged about 26 years,  
S/o Gopinath Nayak,  
At- Anlabadi Colony (Kantaguda),  
PO. Litiguda, Dist- Koraput  
Presently working as Skill Development Trainee.
3. Sadasiba Mali,  
aged about 29 years,  
S/o Dashmant Mali,  
At- Qtrs. No. A-215, Sec-II, NALCO Township,  
PO. Damanjodi, Dist- Koraput  
Presently working as Skill Development Trainee.
4. Prasant Khora,  
aged about 34 years,  
S/o Dhanapati Khora,  
At- Anlabadi Colony (Kantaguda),  
PO. Litiguda, Dist- Koraput  
Presently working as Skill Development Trainee.
5. Karna Rathi Mali,  
aged about 29 years,  
S/o Dhanapati Mali,  
At- Anlabadi Colony,  
PO. Litiguda, Dist- Koraput  
Presently working as Skill Development Trainee.
6. Bhaskar Kumar Raju,  
aged about 26 years,  
S/o Balaram Raju,  
At- Anlabadi Colony (Kantaguda),  
PO. Litiguda, Dist- Koraput  
Presently working as Skill Development Trainee.

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7. Praful Khara,  
aged about 28 years,  
S/o Krushna Chandra Khara,  
At- Anlabadi Colony (Kantaguda),  
PO. Litiguda, Dist- Koraput  
Presently working as Skill Development Trainee.

8. Laba Mali,  
aged about 29 years,  
S/o Dama Mali,  
At- Anlabadi Colony,  
PO. Litiguda, Dist- Koraput  
Presently working as Skill Development Trainee.

9. Sadan Gouda,  
aged about 39 years,  
S/o Mana Gouda,  
At- Anlabadi Colony,  
PO. Litiguda, Dist- Koraput  
Presently working as Skill Development Trainee.

Applicants Nos. 1 to 9 are all working in M&R Complex,  
Damanjodi, National Aluminium Company Limited (NALCO), At/PO-  
Damanjodi, Koraput-763008.

...Applicants

(Advocates: M/s. S. Palit, A.Mahana, A. Mishra )

**VERSUS**

1. National Aluminium Company Limited (NALCO),  
Represented through its CMD,  
At NALCO Bhawan, P-1, Nayapalli,  
Bhubaneswar, Dist- Khurda-751061.
2. General Manager (H&A) In-Charge ED,  
National Aluminium Company Limited (NALCO),  
Corporate Office, At-Nalco Bhawan, P-1,  
Nayapalli, Bhubaneswar, Dist- Khurda-751061.
3. General Manager,  
M&R Complex, Damanjodi,  
National Aluminium Company Limited (NALCO),  
At/PO- Damanjodi, Koraput-763008.
4. Deputy General Manager (H&A),  
M&R Complex, Damanjodi,  
National Aluminium Company Limited (NALCO),  
At/PO- Damanjodi, Koraput-763008.

*all*

5. Deputy Manager, HRD,  
M&R Complex, Damanjodi,  
National Aluminium Company Limited (NALCO),  
At/PO- Damanjodi, Koraput-763008.
6. Senior Manager, HRD,  
M&R Complex, Damanjodi,  
National Aluminium Company Limited (NALCO),  
At/PO- Damanjodi, Koraput-763008.

... Respondents

(Advocate: M/s. M.K.Mishra, D.K.Patnaik )

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**ORDER (ORAL)**

**A.K. PATNAIK, MEMBER (JUDL.):**

Heard Mr. S. Palit, Ld. Counsel for the Applicants, and Mr. M.K.Mishra, Ld. Sr. Counsel, assisted by Mr. D.K.Patnaik, Ld. Counsel appearing for the Respondents-NALCO, and perused the materials placed on record. Mr. Palit may serve a copy of this O.A., along with annexures, to Mr. Mishra, Ld. Sr. Counsel, in course of the day.

2. M.A.No. 33/16 filed by the applicants to prosecute this case jointly is allowed.

3. This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:

“A. To quash the impugned Advertisement under Annexure-A/17, declaring the same as illegal and arbitrary and bad in the eye of law, so far as the present applicants are concerned.

B. To direct the Respondents to absorb the Applicants permanently in their respective jobs/posts.

C. To direct the Respondents to pay the applicants equal pay for equal work as is being paid to their counterparts as regular employee, who have been discharging same/equal work.

D. Any other relief.....”

*Alk*

4. The applicant in this present O.A. challenges the Advertisement No. M&R/01/2015 floated on 30.12.2015 for recruitment/selection of freshers for "Skill Up- Gradation Practical Trainee (SUPT)/Junior Operative Trainee (JOT)-HEMM" which are presently being discharged by the applicants for more than last three years without regularizing/absorbing the present applicants permanently in the said jobs/posts. They have challenged the aforesaid advertisement on the grounds inter alia that such action on the part of the Respondents in publishing the above noted Advertisement, without regularizing/absorbing the applicants although they have already completed their training period and also their "On the Job Training", is illegal, arbitrary and bad in the eye of law.

5. We find that no departmental remedy has been availed by the applicants and, therefore, the O.A. is hit by Section 20 of the CAT Act and Procedure Rules, which reads as under :

**"20. Application not to be admitted unless other remedies exhausted –**

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal

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preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.


(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.”


6. After hearing in extenso, Mr. Palit, Ld. Counsel for the applicants, seeks liberty of this Tribunal to withdraw this O.A. to file comprehensive representation ventilating all their grievances before Respondent No.2 with copy to Respondent No.3. We find that no prejudice will occur to either of the sides if such liberty is granted to the applicants. Accordingly, without going into the merit of this case, we dispose of this O.A. at this admission stage with liberty to the applicants to make comprehensive representation individually to Respondent No.2 with copy to Respondent No. 3 within a period of 10 days from today and if such representations are made within 10 days from today, i.e. by 30.01.2016 then Respondent Nos. 2 and 3 are directed to consider and dispose of the same within a further period of one month from the date of receipt of copy of the representations and communicate the result thereof to the applicants. We make it clear that though we have not entered into the merit of the matter still then we hope and trust that no coercive action will be taken against the applicants till 01.03.2016.

5. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.



6. On the prayer made by Mr. Palit, Learned Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent Nos. 2 and 3 by Speed Post for which he undertakes to file the postal requisites by 25.01.2016. Mr. Palit is at liberty to file a certified copy of this order before the authorities.

  
(R.C.MISRA)  
MEMBER(Admn.)

  
(A.K.PATNAIK)  
MEMBER(Judl.)

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