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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK**

OANo.797 of 2013
Cuttack, this the 20th day of December, 2013

CORAM

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

1. Shri Dillip Kumar Rout, aged 49 years, S/o. Prahallad Rout, General Secretary (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
2. Sankar Sahoo, aged about 52 years, S/o. Sahdu Charan Sahoo, President, (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
3. Uttam Charan Sahoo, aged about 51 years, S/o. Babaji Sahoo, Vice-President, (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
4. Rama Chandra Lenka, aged about 51 years, S/o. Rajib Charan Lenka, Secretary, (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
5. Brundaban Tarai, aged about 50 years, S/o. Sankar Prasad Tarai, P.M. Section, O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
6. Ganesh Kumar Moharana, aged about 50 years, S/o. Bansidhar Moharana, P.M. Section, O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
7. Nagendra Kumar Mohanty, aged about 52 years, S/o. Late Akulananda Mohanty, P.M. Section, O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
8. Kanchani Naik, aged about 36 years, D/o. Late Kailash Ch. Naik, Executive Member, (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
9. Rana Murmu, aged about 44 years, D/o. Karti Charan Murmu, P.M.-1 Section, O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
10. Sukanta Kumar Panigrahi, aged about 47 years, S/o. Benudhar Panigrahi, Senior Accountant, O/o. the Principal

Alleged

Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.

11. Tarakanta Mohanty, aged about 50 years, S/o. Late Kanhu Charan Mohanty, LTA (Review Cell), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
12. Jagabandhu Behera, aged about 54 years, S/o. Narahari Behera, Executive Member, (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
13. Pratap Kumar Jena, aged about 51 years, S/o. Prasan Kumar Jena, Executive Member, (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.
14. Paramananda Roy, aged about 57 years, S/o. Raghunath Roy, Executive Member, (Odisha Accounts Association), O/o. the Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, Dist- Khurda.

....Applicants

(Legal Practitioner: M/s. G.C.Mohanty, R.N.Acharya, D.R.Mohapatra, A. Swain)

Versus

UNION OF INDIA REPRESENTED THROUGH-

1. Principal Accountant General (A&E), Odisha, Bhubaneswar-751001, P.S.- Capital, Unit-1, Dist- Khurda.
2. Deputy Accountant General (A&E), Odisha, Bhubaneswar-751001, P.S.- Capital, Unit-1, Dist- Khurda.
3. The Comptroller & Auditor General of India, Pocket-9, Deen Dayal Upadhyaya Marg, P.O.- Indraprastha, New Delhi-11024.
4. Union of India, represented through the Principal Secretary, Ministry of Personnel P.G. & Pensions, Department of Personnel & Training, North Block, New Delhi-110001.

....Respondents

(Legal practitioner: Mr. S.B.Jena)

Allen

O R D E R (Oral)

A.K.PATNAIK, MEMBER (JUDICIAL):

All the Applicants are the employees of the Principal Accountant General, Odisha, Bhubaneswar. They have filed this Original Application in the capacity of office bearer/members of the association of the Odisha Accounts Association, Office of the Principal Accountant General (A&E), Odisha, Bhubaneswar. The prayer of the Applicants in the instant OA is to quash the orders dated 01.07.2013, 22.10.2013 and 06.11.2013 and to direct the Respondents to follow the Manual Attendance System in place of Biometric Attendance System.

2. In this regard, it is to be noted that the Order dated 01.07.2013 is a Circular intimating the Staff members to register themselves in the Biometric Attendance System with effect from 01.07.2013 & 02.07.2013 with further information that the Finger Prints device will allow the first attendance before 10.00 am the second attendance between 1.30 pm to 2.30 pm and the third attendance after 6.00 pm. In the said circular it has also been stated that the existing system of signature on attendance system will prevail side by side during the trial run period but not marking the attendance through the Biometric System will be treated as absence from the Office.

Alleg

The order dated 22.10.2013, which is sought to be quashed, is a Circular providing mode of operation, instructions how to use the system and other general instruction like calculation of CL, EL etc.

The order dated 06.11.2013 which is sought to be quashed is circular in partial modification of the circular dated 01.07.2013 in which it has been indicated that Attendance will be taken 04 (four) times in a day with further stipulation that non marking through Biometric System as per the timings will be treated as unauthorized absence.

3. Copy of this OA has been served on Mr.S.B.Jena, Learned Additional CGSC for the Union of India who is absent on accommodation. However, we have heard Mr.D.C.Mohanty, Learned Senior Counsel assisted by Shri R.N.Acharya, for the Applicants and perused the records. Mr.Mohanty, Learned Senior Counsel has made all endeavour to convince that the Deputy Accountant General (Admn.) who is not competent has issued the circulars which has serious consequences adversely affecting the fundamental rights of equality of the Applicants and other members of the association without giving them any opportunity. As such, the circulars being a nullity in the eyes of law the same are liable to be quashed/set aside.

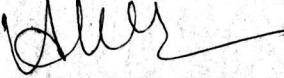
Alley

4. But as we find in this OA the circulars which are sought to be quashed in this OA are the implementation of Biometric Attendance System in the Office which has been issued by the Deputy Accountant General (Adm.) and not the decisions taken to introduce the Biometric Attendance System for the smooth running of the administration by ensuring punctuality of attendance of the employees of the Department. Be that as it may, a doubt has arisen as to how the subject matter of this Original Application comes within the meaning of 'service condition' enabling this Tribunal to entertain this OA but on being confronted there was no satisfactory answer to the above effect. This Tribunal is set up under the Administrative Tribunals Act, 1985 to resolve the matters pertaining to the service conditions of the Government of India employees/to resolve any dispute regarding payment of any dues etc. of the employees as also of their legal heirs. This Tribunal is certainly not vested with any power/ authority to either frame any Rules/Regulations governing the service conditions of any employee of the Government of India or to adjudicate the dispute regarding the affairs/decision taken by the authority, as a matter of policy, for smooth running ^{of} ^b the administration especially in the instant case introduction of Biometric Attendance System in place of Manual Attendance System. By introducing such a system if the administration intends ^{ed} ^b to enhance the timing of the office fixed by

the Government then this Tribunal would have got the jurisdiction to interfere.

5. In the light of the discussions made above, we are
~~that we can not~~
afraid ~~to~~ entertain this OA for adjudication. Hence this OA is
dismissed. There shall be no order as to costs.


(R.C.MISRA)
MEMBER (ADMN.)


(A.K.PATNAIK)
MEMBER (JUDL.)