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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 873 of 2013

Cuttack the 26th day of December, 2013

CORAM

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

.....

1. Ashok Kumar Nanda, aged about 49 years, S/o.Sri Lingaraj Nanda;
2. Bankanidhi Maharana, aged about 5 years, S/o.Late Jogendra Maharana;
3. Prafulla Kumar Bhanjadeo, aged about 53 years, S/o.Late Jadumani Bhanjadeo;
4. Pabitra Kumar Sahoo, aged about 55 years, S/o.Late Jogi Sahoo;
5. Gaydhara Puhan, aged about 54 years, S/o.Late Nabaghana Puhan;
6. Dhirendra Nath Nayak, aged about 55 years, S/o.Late Dwaraka Nath Nayak;
7. Jayanta Kumar Barik, aged about years, S/o. Late Surendra Nath Barik;
8. Asuthosh Mohapatra, aged about 5 years, S/o. Late Dhaneswar Mohapatra;
9. Kishore Chandra Pati aged about 58 years, S/o. Kahnu Charan Pti;
10. Badal Kumar Parida, aged about 53 years, S/o. Late Siba Parida;
11. Hrusikesh Sahoo, aged about 53 years, S/o. Late Digambara Sahoo.
12. Pradip Kumar Routray, aged about 50 years, S/o. Nimei Charan Routray;
131. Susanta Kumar Nanda aged about 49 years, S/o. Late Daitari Nanda;
14. Hadubandhu Senapati, aged about 44 years, S/o. Late Bhubaneswar Senapati;



15. Sabita Das, aged about years, S/o. Kailash Chandra Das;
16. Bipin Bihari Sahoo, aged about 42 years, S/o. Baishnava Charan Sahoo.
- [Sl.No.1 to 15 are working as Office Superintendent and Sl.No.16 is Sr. Clerk, At-Carriage Repair Workshop, East Coast Railway, PO. Mancheswar Railway Colony, PS-Mancheswar, Dist. Khurda.

....Applicants

(Advocates: M/s.S.C.Panda, M.S.Sahoo)

VERSUS

Union of India Represented through -

1. The General Manager, East Coast Railway, E.Co.R. Sadan, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. The Chief Personnel Officer, East Coast Railway, Rail Sadan, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
3. Secretary, Railway Board, Rail Bhawna, New Delhi-110 001.

.....Respondents

(Advocate: Mr.T.Rath)

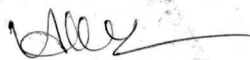
ORDER

(Oral)

A.K.PATNAIK, MEMBER (I):

MA No. 854 of 2013

By filing the instant MA under Rule 4 (5) of the CAT (Procedure) Rules, 1987 the applicants have prayed that as their grievance is based on a common cause of action and prayer made in the OA being one and the same they may be permitted to prosecute this OA jointly. Having heard Mr.S.C.Panda, Learned Counsel appearing for the Applicants and Mr.T.Rath, Learned Standing Counsel appearing for Railway-Respondent, I find substance on the contentions raised by the Applicants. Accordingly, in exercise of the power conferred under Rule 4 (5) of the CAT (Procedure) Rules, 1987, the applicants are permitted to prosecute this OA jointly. M.A is accordingly disposed.



OA No. 873 of 2013

2. Applicants' grievance in nut shell is that vide RBE No. 123/1996 dated 06.12.1996, the Railway Board issued exhaustive instruction for determination of seniority of staff, on transfer to new Zones with further direction that the staff of the CRW will be treated as a separate class. The above position was again reiterated by the Railway Board vide RBE No. 117/2002 dated 19.07.2002. On 02.01.2003, Respondent No.2, issued order for determination of seniority of staff came on transfer to the new zones. In the said instruction the employees of CRW were debarred from exercising their option for transfer treating them as different organization. Accordingly, on 31.03.2013, gradation list of the staff of CRW Mancheswar was prepared and circulated to all concerned. On 17.06.2013, respondent No.2 sought the views of the registered recognized Trade Unions of East Coast Railway for merger of Ministerial Cadre of Mechanical and Electrical of CRW/MCS with that of ECoR/HQ, BBSR. On 27.06.2013 one of the recognized Unions known as East Coast Railway Sramik Congress submitted objection for the proposed merger. This was also discussed by the ^{other} ~~said~~ Union during 26th Zonal PNM Meeting with General Manager. Thereafter, Respondent No.2 has taken unilateral decision for merger of Ministerial cadre (Mechanical and Electrical) under CRW/MCS with ECoR/HQ/BBSR and issued Memorandum dated 30.07.2013. ~~Again~~ ^{also} The East Coast Railway Sramik Union ^{also} submitted objection on 01.08.2013 against the unilateral decision for

[Signature]

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merger of the cadres. Being aggrieved applicants along with others submitted representation on 13.08.2013 but Respondent No.2 without considering the said objection^A of the Union and the representation, issued integrated Provisional Seniority list of Mechanical cadre of CRW/MCS with that of ECoRly, HQ, BBSR on 29.08.2013. Again the applicant^s submitted reminder dated 11.09.2013 requesting reconsideration of such decision of merger of the cadre.

3. Heard Mr.S.C.Panda, Learned Counsel appearing for the Applicants and Mr.T.Rath, Learned Standing Counsel appearing for Railway-Respondent and perused the records. Mr.Rath accepts the notice for all the Respondents. Accordingly, registry is directed to hand over copies of the notices to Mr.Rath for his onward transmission as undertaken by him.

4. According to Mr.Panda issuance of integrated Provisional Seniority list of Mechanical cadre of CRW/MCS with that of ECoRly, HQ, BBSR being contrary to the specific Railway Board's instruction issued vide RBE No. 123/1996 dated 06.12.1996 & RBE No. 117/2002 dated 19.07.2002 the applicants have filed the instant OA praying therein to quash Memorandum dated 30.07.2013 and provisional gradation list issued on 29.08.2013.

5. On the other hand Mr.Rath's contention is that the authorities have every right to take decision with regard to merger of cadres. Since as a matter of policy it was decided to merge the cadre the applicants have hardly




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any grievance on the same. It was contended by him that the applicants have prayed for quashing the integrated provisional gradation list issued on 29.8.2013 but the persons who will be affected in case the said gradation list is quashed^{ed} has not been arrayed as Respondents in this OA. Further contention of Mr. Rath is that possibly at present the applicants have no cause of action to approach this Tribunal as no decision has been communicated on their representations till date.

6. The above being the position, without entering into the merit of the matter, this OA is disposed of, at this admission stage, with direction to the Respondent No. 2 to consider/dispose of the representation of the applicants dated 13.08.2013 read with the objections of the Union dated 01.08.2013, if at all preferred and is pending, and communicate the decision to the Applicants, in a well-reasoned order, before further proceeding to make the integrated provisional seniority list dated 29.08.2013 as final, which shall be, in any event, within a period of 60 (sixty) days from the date of receipt of copy of this order. There shall be no costs.

7. As prayed for by Mr. Panda, Learned Counsel for the Applicant copy of this order be sent to Respondent No.2 by speed post for compliance at his cost for which he undertakes to furnish the postal requisite within three days hence.


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