CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

**O. A. No. 260/00917 OF 2016**
**Cuttack, this the 17th day of February, 2017**

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

.....

1. Madan Majhi, aged about 65 years,S/o-Late Keshab Majhi, At- Baunsakanta, PO- Sabira, PS- Soro, Dist- Balasore.
2. Raghunath Sethi, aged about 50 years,S/o- Subal Sethi, At- Jagannath Patna, PO- Ganguti, PS/Dist- Balasore.
3. Bishnu Mohan Pal, aged about 63 years,S/o- Ram Pal, At- Bastrideipur PO- Sarasinkh, PS- Soro, Dist- Balasore.
4. Purna Chandra Mahana, aged about 59 years,S/o- Chinta Mahana, At/PO- Barsankh, PS- Soro, Dist- Balasore.
5. Nanda Nayak, aged about 59 years,S/o- Damodar Nayak, At- Nuagaon, PO- Mulisingh, PS- Soro, Dist- Balasore.
6. Bhagirathi Jena, aged about 50 years,S/o- Shyam Jena, At- Nuagaon, PO- Mulisingh, PS- Soro, Dist- Balasore.
7. Sabitri Dei @ Khanda, aged about 59 years, W/o- late Maheswar Khanda, At- Nuagaon, PO- Dahisada, PS- Soro, Dist- Balasore.
8. Debendra Khanda, aged about 56 years,S/o- Late Surendra Khanda, At- Nuagaon, PO- Dahisada, PS- Soro, Dist- Balasore.
9. Gangadhar Jena, aged about 54 years,S/o- Biswanath Jena, At/PO- Sankh, PS- Soro, Dist- Balasore.
10. Ananta Dhinda, aged about 56 years,S/o- Sambhu Dhinda, At- Madhusudanpur, PO- Banabishnupur, PS- Soro, Dist- Balasore.
11. Madan Panda, aged about 69 years,S/o- Judhistir Panda, At- Jagadalpur, PO- Rambilla, PS/Dist- Bhadrak.
12. Santosh Das, aged about 47 years,S/o- Late Sanatan Das, At/PO- Rambilla, PS/Dist- Bhadrak.
13. Sankar Pradhan, aged about 62 years,S/o- Baidhar Pradhan, At/PO- Rahanja, PS/Dist- Bhadrak.
14. Gajendra Jena, aged about 48 years,S/o- Dama Jena, At- Nuagaon, PO- Mulisingh, PS- Soro, Dist- Balasore.
15. Jatindra Majhi, aged about 66 years,S/o- Late Kangali Majhi, At/PO- Sabira, PS- Soro, Dist- Balasore.

…Applicants

(By the Advocate-M/s. B.S.Tripathy, M.K.Rath, J.Pati)

-VERSUS-

**Union of India Represented through**

1. General Manager, South Eastern Railway, Garden Reach, Kolkata-43.
2. Divisional Railway Manager, South Eastern Railway, Kharagpur Railway Division, At/PO- Kharagpur, Dist- Midnapur, West Bengal.
3. Divisional Personnel Officer, Office of the Divisional Railway Manager, South Eastern Railway, Kharagpur Railway Division, At/PO- Kharagpur, Dist- Midnapur, West Bengal.
4. Permanent Way Inspector (PWI), Soro Railway Station, South Eastern Railway, At/PO- Soro, Dist- Balasore.

…Respondents

By the Advocate- Mr. T.Rath

**ORDER(Oral)**

**R.C. MISRA,MEMBER(A):**

Heard Mr. B.S. Tripathy, Ld. Counsel appearing for the applicant and Mr. T. Rath, Ld. Standing Counsel appearing for the Respondents-Railways on whom a copy of this O.A. has already been served and perused the materials placed on record.

2. M.A. No.732/16 for joint petition is allowed and accordingly disposed of.

3. The applicants who are 15 in number are retrenched casual labourers. However, the late husband of applicant No.7 and late father of applicant No.12 were also retrenched casual laboueers, who were working under the Permanent Way Inspector (Respondent No.4) for the periods prior to the year 1985 and also during 1985 to 1989. They were retrenched by the Railway Authority in the year 1988-89. Thereafter, they approached the Tribunal in O.A. No.381/93 seeking a direction to the Respondents to allow them as Gangmen. The Tribunal vide order dated 20.05.1997 rejected the said O.A. No.381/93. Thus aggrieved the applicants approached the Hon'ble High Court of Orissa in OJC No.13726/97 and the Hon'ble High Court of Orissa allowed the writ application by quashing the of the Tribunal and remitted the matter back to the Tribunal for fresh adjudication. Thereafter, the Tribunal was pleased to allow the O.A. by directing the Respondents to give engagements to the applicants as Monsoon Patrol Casual Labourers. This order of the Tribunal was challenged by the Respondents-Department and the writ application filed in this behalf was dismissed by the Hon'ble High Court of Orissa by an order dated 09.04.2010 passed in W.P. (C ) No.405/02. This order was again challenged by the Respondents-Department before the Hon'ble Apex Court,

by filing Civil Appeal No.1550/16. By an order dated 19.02.2016 Hon'ble Apex Court upheld the orders of the Tribunal and directed the Railways to implement the orders within four weeks. For implementing the orders of the orders of the Hon'ble Apex Court, the Divisional Railway Manager(P) called the applicants for personal hearing on 06.04.2016 with voter ID/PAN Card etc. along with proof in support of their identity and age. The DRM (Respondent No.3) subsequently pointed out some technical discrepancies relating to age and as such issued letters dated 04.05.2016 to the applicants and observed that they are beyond 60 years of age and asked them to produce documentary evidence to prove their identity that they are the same persons who had filed the petition before the Hon'ble Apex Court. In case of applicants No.7 & 12, Respondent No.3 has rejected their case on the ground that the directives of the Hon'ble court are applicable strictly to the petitioners only but not to the legal heirs.

4. The Ld. Counsel for the applicant has pleaded that the applicants having pursue their case since the year, 1993 and at that no point of time their identity was questioned by the Respondents. In view of these facts, the Ld. Counsel has prayed for quashing the orders dated 04.05.2016 filed at Annexure-A/5 series. The further prayer is that the matter may considered strictly in accordance with the orders passed by the Hon'ble Apex Court and all service and consequential benefits may be given with effect from 08.07.2002 as per the direction of the Tribunal dated 20.06.2002 passed in O.A. No.381/93.

5. Mr. Rath, Ld. Standing Counsel for the Railways on the other hand contended that the Respondents-Department have every right to check the identity of the applicants and also their age of the applicants before

implementing the orders of the Hon'ble Apex Court. Therefore, he has submitted that there is no error in the impugned orders passed by the Respondent-Department.

6. I have also examined the order passed by the Divisional Personal Officer dated 04.05.2016. The Divisional Personal Officer has mentioned in this order that with due regard to the sanctity of the Hon'ble Courts directives towards compliance of the Tribunal's order dated 20.06.2002, every endeavor has been made and while doing so certain discrepancies have been observed. Therefore, he has requested the applicants to submit the documentary evidence in support of their age and proof in order to establish their identity. In case of two applicants he has also mentioned that the direction of the Hon'ble Apex Court is applicable strictly to the petitioner and not to the legal heirs. Therefore, the Respondents have asked the applicants to submit certain documents which are required to do in support of their age and identity. If they also have any grievance with regard to the direction issued by the Respondents they could have filed a representation along with necessary documents praying for redresseal of their grievance. Having not done so they have directly approached this Tribunal. For effective adjudication of this matter in the Tribunal, it is required that the applicants should submit the reply to the letter dated 04.05.2016 issued by the Respondents Department by submitting the required documents which should be considered by the authorities for implementation of the orders of the Hon'ble Apex Court. In view of the discussions the applicants are directed to submit their reply along with necessary documents to Respondent No.3 within a period of two weeks' from today and if such replies are filed the Respondent No.3 is directed to

dispose of the matter within a period of four weeks' from the date of filing of such replies.

7. With the aforesaid observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.

8. On the prayer made by Mr. B.S. Tripathy, Ld. Counsel appearing for the applicant, copy of this order along with paper book be communicated to the Respondent Nos.1, 2 & 3 by Speed Post at the cost of the applicant, for which Mr. Tripathy undertakes to file the postal requisites by 21.02.2017.

**(R.C.MISRA)**
**MEMBER(A)**

K.B.