

LIBRARY

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O.A. No. 350/00142/2013

Date of Order: 27.02.2019

M.A. No. 350/00199/2015

O.A. No. 350/01136/2011

O.A. No. 350/00596/2012

O.A. No. 350/00482/2013

O.A. No. 350/00147/2014

Present: **THE HON'BLE SMT. MANJULA DAS, MEMBER (A)**
THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE (A)

O.A. No. 350/00142/2013 :

- (1) Anil Kumar Sarkar
Son of Late Abani Kumar Sarkar
Aged about 73 years and residing
At Flat No. 401, Nilima Apartment, 183
S.K. Deb Road Chowdhury Bagan, Kolkata – 700048.
2. Deba Prasad Basu
Son of late Sasthibar Basu
Aged about 71 years and
Residing at Vibekananda Road
(Opposite Vibekananda Bidya Mandir)
Barasat, Kolkata – 700124.
3. Pratul Kumar Chakravorty
Son of Late Jagatbandhu Chakraborty
Aged about 69 years and residing at
374/1A, P.K. Guha Road, Kolkata – 700028.
4. Gopal Chandra Roy
Son of Late Srish Chandra Roy
Aged about 66 years and residing at
G-18/1, Karunamoyee Housing
Salt Lake, Kolkata – 700091.
5. Sitalmoy Chaudhuri
Son of Late Anil Gopal Chaudhuri
Aged 66 years and residing at 18/3

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Kumud Ghoshal Road, GKC Towers
Block-B, 3rd Floor, P.O. – Ariadaha
Kolkata – 700057.

6. Ajay Kumar Chattopadhyay
Son of Late Amulya Krishna Chattopadhyay
Aged about 69 years and residing at Arati Apartment
74, Rastroguru Avenue, Dum Dum
Clive House, Kolkata – 700028.
7. Mihir Kumar Sanyal
Son of Late Dhirendranath Sanyal
Aged about 70 years and residing at 27
Debiniwas Road, Kolkata – 700074.
8. Shakti Sawarup Sharma
Son of Late Bhagat Ram Sharma
Aged about 67 years and residing at B-22
Parijat Apartment, Western Clave
Pritampura, New Delhi – 110034.
9. Amal Krishna Choudhury
Son of Late Kishori Mohan Chowdhury
Aged about 67 years and residing at
Basantitala, Kanthal Pally, Chakdaha
Pin – 741222, Dist – Nadia (W.B.).
10. Pratap Bhanu Singh
Son of Jangi Singh
Aged about 73 years and residing
At Rashtra Bharti Inter College Street
Kalyanpur (West), Ring Road
Lucknow – 226022, U.P.
11. Sarabjit Singh
Son of Sri Prem Singh
Aged about 65 years and residing at 395
'B' Block, Panki, Kanpur – 208020, U.P.
12. Gopal Ji Asthana
Son of Late Krishna Bihari Lall Asthana
Aged about 66 years and residing at 44
HIG, 'B' Block, Panki, Kanpur – 208020
Uttar Pradesh.

Revised by [Signature]

13. **Samar Kumar Ghosh**
 Son of Late Sibdas Ghosh
 Aged about 69 years and residing
 At 424/B, 'B' Block – B, P.O. – Panki
 Kanpur – 208020, U.P. FGK.

14. **Prem Kishore Pastore**
 Son of Late Hit Kishore Pastore
 Aged about 69 years and residing at 191/4
 Swaraj Nagar, P.O. – Panki
 Kanpur – 208020, U.P.

15. **Rama Kant Misra**
 Son of Late Ram Baksh Misra
 Aged about 66 years and
 Residing at MIG-17OB, Block – 'B'
 P.O. – Panki, Kanpur – 208020, U.P., SAF.

16. **Himadri Sekhar Ghosh**
 Son of Late Nikunja Ranjan Ghosh
 Aged about 68 years
 Permanently residing at C-17/5, EKTP Phase IV
 Manjulika – 'A', Kolkata – 700017
 Presently residing at B-6/370
 Second Floor, Chitrakoot, Sector – 06
 Jaipur – 302021, Rajasthan, GCF.

17. XXXXXXXXXX

18. **Pronoy Kumar Bhattacharya**
 Son of late Benoy Bhusan Bhattacharya
 Aged about 69 years, and residing at 37
 Indrani park, Flat No. 1, Tollygunj
 Kolkata – 700033.

-All the aforesaid applicants are at present retired employees having their Head Quarters at Ordnance Factory Board of 10A, Shahid Kshudiram Bose Road, Kolkata – 700001, from where the relevant parent order for implementation, impugned or not, have been issued.

...Applicants

-Versus-

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1. **Union of India**, through the Secretary
Ministry of Defence, Govt. of India
Dept. of Defence Production & Supplies
South Block, New Delhi – 110001.
2. Director General of Ordnance Factories and Chairman
Ordnance Factory Board, 10A, Shaheed Khudiram
Bose Road, Kolkata – 700001.
3. General Manager, Ordnance Factory
Dum Dum, Jessor Road, Kolkata – 700028.
4. General Manager, Rifle Factory
Ichapore, P.O. – Ichapore Nawabgunj
Pin – 743 144, North 24 Parganas.
5. General Manager, Metal & Steel Factory
Ichapore, P.O. – Ichapore, Nawabgunj
Pin – 743 144, North 24 Parganas.
6. General Manager, Gun & Shell Factory
Cossipore, Kolkata – 700002.
7. General Manager, Small Arms Factory
Kanpur – 208009, U.P.
8. General Manager, Field Gun Factory
Kanpur – 208009, U.P.
9. General Manager, Ordnance Factory
Kanpur – 208009, U.P.
10. General Manager, Ordnance Factory
Muradnagar – 201206, U.P.
11. General Manager, Gun Carriage Factory
Jabalpur – 482011, Madhya Pradesh.
12. General Manager, Vehicles Factory, Jabalpur
Pin – 482009, M.P., Madhya Pradesh.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy

For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

Mr. B.R. Das

M.A. NO. 350/00199/2015 (O.A. NO. 350/00142/2013)

1. Sabita Kar, widow of Late Manoranjan Kar
Aged about 66 years, house wife and residing at
120/11, J.K. COLONY, JAJMAU, Shiwan's Tenray
Shiwan's Tanney Bilhaur Kanpur Nagar, UP - 208010.
2. Indranil Kar, son of Late Manoranjan Kar
Aged about 44 years, residing at
120/11, J.K. COLONY, JAJMAU, Shiwan's Tenray
Shiwan's Tanney Bilhaur Kanpur Nagar, UP - 208010.

...Petitioners

-Versus-

1. Union of India, through the Secretary
Ministry of Defence, Department of Defence Production
& Supplies, South Block, New Delhi - 110001.
2. Chairman & Director General of Ordnance Factories
10A, Sahid Khudiram Bose Road, Kolkata - 700001.
3. General Manager, Ordnance Equipment Factory
Kanpur - 208009, U.P. & 8 Others.

...Respondents.

O.A. NO. 350/01136/2011

1. Asim Kumar Dan
Son of Late Dolgobinda Dan
Aged about 70 years and
Residing at Flat No. 10, 100/1A
Sreerampur (North), Garia, Kolkata - 700084.
2. Asish Kumar Pal
Son of Late Upananda Paul
Aged about 67 years and residing at Kajipara Road
Nayabappi, P.O. - Barrackpore, Kolkata - 700120.
3. Akhileswar Das, son of Late Hara Prasanna Das
Aged about 70 years and residing at New Garia Dev.
Co-operative Housing Society Ltd., Kolkata - 700094.

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4. Arun Kumar Banerjee, son of Late S.N. Banerjee
Aged about 66 years and residing at B-90
New Garia Dev, Co-operative Housing Society Ltd.
Kolkata – 700094.
5. Kajal Kanti Chakrabarti, Son of Late Durgamohan Chakrabarti
Aged about 70 years and residing at Parbati Complex
2/6, Ghoshpara Road, Badamtala, P.O. – Bengal Enamel
Dist – 24 Parganas (North), Pin – 743 122.
6. Ranjit Kumar Mukhopadhyay
Son of Late Pramatha Nath Mukhopadhyay
Aged about 70 years, residing at 21/11
Raypara Lane, P.O. – Konnagar, Pin – 712235.
7. Samarendra Lala Haldar
Son of Late Rajendra Lal Haldar
Aged about 72 years, residing at 1/26A
Naskarpara Lane, P.O. – Dhakuria, Kolkata – 700031.
8. Satyendra Nath Mukhopadhyay
Son of Late Sarasi Chandra Mukhopadhyay
Aged about 68 years and residing at Flat 2A
II Floor, Port Centre, 32/1, Port Blair Lane
Barrackpore, Kolkata – 700120.
9. Dibyendu Pakrashi
Son of Late Shiba Prasad Pakrashi
Aged about 66 years and residing at 153/1
Prince Golam Hossain Shah Road, Jadavpur
Kolkata – 700032.
10. Tarun Kumar Bose
Son of Late Satyendra Nath Bose
Aged about 69 years and residing at TG-2/23A
Kolupukur, Tegharia, Kolkata – 700059.
11. Biman Baran Chakraborty
Son of Late Brojendra Nath Chakraborty
Aged about 66 years and residing at 20J
Flat No. 3C, 20 J, Kalicharan Dutta Road
Behala, Kolkata – 700061.
12. Bijoy Krishna Roy
Son of Late Radha Charan Roy

Writen by Mr

Aged about 71 years and residing at 24/117
 Jessore Road No. 1, Airport Gate
 Dum Dum, Kolkata - 700028.

13. Santi Bhushan Saha
 Son of Late Raicharan Saha
 Aged about 71 years, and residing 12, Shyamashree
 Pally Road, P.O. Nona Chandanpukur
 Dist - 24-Parganas (North), Kolkata - 700122.
14. Sudhangsu Sekhar Nag
 Son of Late Upendra Nag
 Aged about 69 years and residing at Jayashree
 Apartment, E/17, Jayashree Park, Behala
 Kolkata - 700034.
15. Kanailal Sarkar, S/o Late Suresh Chandra Sarkar
 Aged about 71 years and residing at Tantipara
 P.O. - Mrigala Denkuni, Hooghly - 712311.
16. Himadri Narayan Basu
 Son of Late Keshab Narayan Basu
 Aged about 70 years and residing at - Debi Nibas Rd
 P.O. - Motijheel, Kolkata - 700074.
17. Animesh Bandopadhyay
 Son of late Suresh Chandra Bandopadhyay
 Aged about 67 years and residing at - Lake Plaza
 Flat 2, 1st Floor, 123, Santoshpur Avenue, Kolkata - 700075.
18. Samar Kanti Ghosh
 Son of Late Amaresh Chandra Ghosh
 Aged about 70 years and residing at
 615-B, Lake Garden, 3rd Floor, Kolkata - 700045.
19. Ananda Mohon Sarkar
 Son of Late Rabindra Nath Sarkar
 Aged about 71 years, and residing at 239/1
 Netaji Subhash Road, Behala, Kolkata - 700034.
20. Sankar Chakravarti
 Son of Late Ananta Kumar Chakravarti
 Aged about 71 years and residing at 70
 Debendra Nath Ghosh Road, Kolkata - 700025.

Manu Bandyopadhyay

21. Soumendra Kumar Roy
Son of Late D.L. Roy, aged about 68 years
Residing at 700, Bachaar Para Road
Sabuj Park, P.O. – Thakurpukur, Kolkata – 700063.
22. Rajat Kumar Sen
Son of Late Surendra Nath Sen
Aged about 65 years, residing at Debinihas Road
Dum Dum, Kolkata – 700074.
23. Sukumar Biswas
Son of Late Santimay Biswas
Aged about 69 years and residing at A-104
Brahmapur South, Garia, Kolkata – 700096.
24. Nirabendra Mukherjee
Son of Late Hirendra Nath Mukherjee
Aged about 66 years and residing at Ideal School Road
Bandipur, P.O. – Rahara, 24-Parganas (North)
Kolkata – 700118.
25. Sunil Kumar Bandapadhyay
Son of Late Nani Gopal Bandopadhyay
Aged about 67 years and residing at Kalyan Nagar
Battala, Rahara, Khardah, Kolkata – 700112.
26. Dipak Kumar Basu
Son of Late Prakash Chandra Basu
Aged about 69 years and residing at 267
Stand Road, P.O. – Ichapur, Nawabgunj
24-Parganas (North), Pin – 743144.
27. Priyadarshi Barua
Son of Late Surendra Barua
Aged about 72 years and residing at 75
Southend Garden, Garia, Kolkata – 700084.
28. Samir Kumar Guha
Son of Late Subodh Chandra Guha
Aged about 68 years and residing at Dheejaj Sagar
Building No. 1, 28 Link Road, Malad West
Mumbai – 400064.
29. (i) Smti. Manjula Mitra
W/o Late Pradip Kumar Mitra

Amritan Mitra

(iii) Debasish Mitra
 Son of Late Pradip Kumar Mitra
 Residing at Manasatala Majherpara
 P.O. – Ishapore, Dist – 24-Parganas (North).

30. Shyamal Kumar Sil
 Son of Late Lakshmi Narain Sil
 Aged about 65 years and residing at C-36
 Bijoynagar, Estd. Ranjhir, Jabalpore, M.P. – 482005.

31. Samar Kumar Ghosh
 Son of Late Saat Indu Ghosh
 Aged about 67 years and residing at Vidyasagar Sarani
 Bally, Ghoshpara (W.B.), Pin – 711227.

- All the aforesaid applicants are at present retired employees having their Head Quarters situated at 10A, Saheed Khudiram Bose Road, Kolkata – 700001.

...Applicants

-Versus-

1. Union of India
 Through Secretary, Ministry of Defence
 Department of Defence Production and Supplies
 South Block, New Delhi – 110001.
2. Chairman & Director General
 Ordnance Factories, 10A, Sahid Khudiram Bose Road
 Kolkata – 700001.
3. General Manager, Ordnance Factory
 Itarsi, M.P. – 461112.
4. General Manager, Rifle Factory
 Ichapur, P.O. – Ichapur Nawabganj
 District – North 24-Parganas.
5. General Manager, Small Ars Factory
 Kanpur, U.P. – 208009.
6. General Manager, Metal & Steel Factory
 Ichapur, Pin – 743144, 24-Parganas (North).

Monogram, M.A.

7. General Manager, Gun & Shell Factory
Cossipore, Kolkata – 700002.
8. General Manager, Ordnance Factory
Dum Dum, Kolkata.
9. Senior General Manager
Gun Carriage Factory, Jabalpur
Pin – 482011.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy

For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

O.A. NO. 350/00596/2012

1. Arun Kumar Nag
Son of Late Ashutosh Nag
Aged about 73 years and residing at 32/15
Chandi Ghosh Roadh, Kolkata – 700040.
2. Bhaskar Chandra Banerjee
Son of Late K.C. Banerjee
Aged about 74 years and residing at Uttarpara
Housing Complex, Flat No. C-11-G (Verma Flats)
35, Lawrence Street, P.O. – Uttarpara
District – Hooghly, Pin – 712258.
3. Mahadeb Das
Son of Late Hara Prasanna Das
Aged about 70 years and residing at 16/1
Boys' School Road, Nabapally
Barasat, Kolkata – 700126.
4. Suprakash Bhattacharyya
Son of Late Sukumar Bhattacharyya
Aged about 72 years, Residing at 206
Lake Town, Block – 'A', Kolkata – 700089.
5. Manash Kumar Moitra
Son of Late Sailesh Chandra Moitra
Aged about 70 years and residing at B-89
Jay Jayanti Sarani, Sector – 2C, Bidhan Nagar, Durgapur – 12.

(Signature)

All the aforesaid applicants are at present retired employees having their Head Quarters situated at 10A, Saheed Kshudiram Bose Road, Kolkata-700001.

...Respondents

-Versus-

1. Union of India
Through Secretary, Ministry of Defence
Department of Defence Production and Supplies
South Block, New Delhi – 110001.
2. Chairman & Director General
Ordnance Factories, 10A, Sahid Khudiram Bose Road
Kolkata – 700001.
3. General Manager, Rifle Factory
Ichapur, P.O. – Ichapur Nawabganj
District – North 24-Parganas, Pin – 743144.
4. General Manager
Metal & Steel Factory, Ichapur
Pin – 743 144, District – North 24-Parganas.
5. General Manager
Gun & Shell Factory, Cossipore
Kolkata – 700002.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy

For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

O.A. NO. 350/00482/2013

1. Arun Kumar Ghosh
Son of Late Sudhangsu Kumar Ghosh
Aged about 71 years and residing at G-204
Baishnabgata Patuli Township
Kolkata – 700094.
2. Kantilal Sengupta
Son of Late Prafulla Kr. Sengupta

True copy M.R.

Aged about 68 years and residing at 39/1
 Durgabari Road, Sarkarpukur East
 New Barrackpur, Pin – 700131, North 24-Parganas.

3. Amareswar Sarkar
 Son of Late Harish Chandra Sarkar
 Aged about 68 years and residing at 93
 Mata Monomohini Nagar, Bonhooghly
 Kolkata – 700108.
4. Debabrata Bose
 Son of Late Pramatha Ranjan Bose
 Aged about 66 years and residing at 235
 Ashokgarh, Kolkata – 700108.
5. Prasanta Kumar Basak
 Son of Late Gopal Ballav Basak
 Aged about 71 years and residing at 149 B- Block
 Bangur Avenue, Kolkata – 700055.
6. Ajay Kumar Ghosh
 Son of late Surya Kumar Ghosh
 Aged about 68 years and residing at 1/21
 Olai Chandi Road, Kolkata – 700037.
7. Prasanta Kumar Baksy
 Son of Late Sachidananda Baksy
 Aged about 68 years and residing at Nandan Kanan
 Dankuni, Pin – 712311, District – Hooghly.
8. Jayanta Kumar Mitra
 Son of Late Sudananda Mitra
 Aged about 69 years and residing at 3/2C
 Kali Charan Sett Lane, Kolkata – 700030.
9. Saiyad Mahammudullah
 Son of Late S.M. Akhter
 Aged about 70 years and residing at
 17/1, Joy Kulla Nulla Road, Kolkata – 700063.
10. Bindumadhab Hajra
 Son of Late Radhshyam Hajre
 Aged about 68 years and residing at 95/2/2
 Abinash Banerjee Lane, Shibpur, Howrah – 711102.

...Applicants

H. M. Hajra

-Versus-

1. Union of India
Through the Secretary, Ministry of Defence
Government of India
Department of Defence production & Supplies
South Block, New Delhi – 110001.
2. Director General of Ordnance Factories and
Chairman, Ordnance Factory Board
10A, Shaheed Khudiram Bose Road
Kolkata – 700001.
3. General Manager, Rifle Factory
Ichapore, P.O. – Ichapore Nawabgunj
Pin – 743144, North 24-Parganas.
4. General Manager Ordnance Factory
Badmal, Orissa, Pin – 767070.
5. General Manager, Ordnance Factory
Khamoria, Jabalpur – 482009, M.P.
6. General Manager, Gun & Shell Factory
Cossipore, Kolkata – 700002.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy

For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

O.A. NO. 350/00147/2014

1. Susil Kumar Pal
Son of Late A.L. Pal
Aged about 67 years and resident at GC-26/2/1
Rabindra Pally Baguiati, Kolkata – 700059.
2. Probin Kumar Mullick
Son of Late K.C. Mullick
Aged about 66 years and residing at C-29/1
Bengur Avenue, Kolkata – 700055.
3. Anand Mohan Khanna
Son of Late M.L. Khanna

Armenia by Mr.

Aged about 67 years and residing at 108-149
Sisaman Bazar, P. Road, Kanpur – 208009.

4. Debasish Mukhopadhyay
Son of Late S.K. Mukherjee
Aged about 67 years and residing at
C/o Iswari Patel, Diwanbada, Manegaon
Ranjhi, Jabalpur – 482005.
5. Rajkumar Basu
Son of Late S.B. Basu
Aged about 69 years and residing
At 303, Ashit Apartment (OPP. R.T.O.)
South Civil Line, Jabalpur – 482001.
6. Swapna Kumar Nandi
Son of Late B. Nandi
Aged about 67 years and residing at 27
Palpara (West), P.O. – Chandannagar
Dist – Hooghly, Pin – 712136.
7. Alin Kumar Pathak
Son of Late N.K. Pathak
Aged about 67 years and residing at James Residency
Block-II, Flat No. 2C., Motilal Gupta Road
Kolkata – 700008.

...Applicants

-Versus-

1. Union of India through the Secretary
Ministry of Defence, Government of India
Department of Defence Production & Supplies
South Block, New Delhi – 110001.
2. Director General of Ordnance
Factories and Chairman
Ordnance Factory Board, 10
Shaheed Khudiram Bose Road
Kolkata – 700001.
3. General Manager, Field Gun Factory
Kanpur, Uttar Pradesh, Pin – 208009.

Munawar Ali

4. General Manager, Gun Carriage Factory
Jabalpur, Madhya Pradesh, Pin – 482001.
5. General Manager, Vehicles Factory
Jabalpur – 482009, Madhya Pradesh.
6. General Manager, Ordnance Factory
Dum Dum, Kolkata – 700028.

...Respondents

For the Applicants : Mr. B.R. Das & Mr. N. Roy

For the Respondents : Mr. L.K. Chatterjee & Mr. S.K. Ghosh

ORDER (ORAL)

MANJULA DAS, MEMBER (A):

These cases are analogous and similar question of law and facts are involved. Thus, they are being examined, considered and decided by this common order. With the consent of the parties of all the O.A.s, this bunch of cases can be decided on the basis of pleadings in O.A. No. 350/1136/2011. Therefore, O.A. No. 350/1136/2011 is taken as the leading case for the purpose of deciding all these 5 O.As.

2. In all these cases, the applicants have prayed for a direction upon the respondents particularly respondent No. 2 to include the names of the applicants as the beneficiaries of the judgment and order passed in the T.A. No. 1069 of 1986, Purnendu Mukhopadhyay and Ors. Vs. Union of India and Ors., Judgment and

Manjula Das

order in C.A. No. 2322 of 1993, Union of India and Ors. Vs. Purnendu Mukhopadhyay and Ors and also that C.A. No. 4862 of 2007 filed by Sri Purnendu Mukhopadhyay & Ors. and to extend the same to the present applicants in the same manner as these orders have already been extended to the applicants of Purnendu Mukhopadhyay's case and to other similarly situated persons who are all similarly situated.

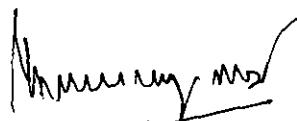
3. According to the learned counsel, the Hon'ble Supreme Court hold by judgment and order in C.A. 4862 of 2007 that the case pertaining to Sri Purnendu Mukhopadhyay and Ors. (supra) be made applicable to all those persons like the applicants who are within the deficiency marks 5% less than that required for promotion to Chargeman Grade-II in their Original Gradation Examination should be granted the benefits of the aforesaid judgment and order. According to the learned counsel, the respondents have been acting arbitrarily inasmuch as the present applicants belonging to the same category of persons with those of Purnendu Mukhopadhyay and Ors. are excluded from the grant of benefit of that order despite clear verdict of the Hon'ble Supreme Court till date without any reasons being assigned thereof.

4. This Tribunal by order dated 09.07.1990 categorically had held that in order to avoid multiplicity of litigation on the same issue

Narayan Ray, M.A.

repeatedly, all the similarly situated persons are to be granted benefit of the judgment and order passed in T.A. No. 1069/1986 (Purnendu Mukhopadhyay and Ors.). According to the learned counsel, since the Hon'ble Supreme Court has already held for grant of similar benefits as those of Sri Purnendu Mukhopadhyay's case (supra), there is no need for filling any separate application before any Court or Tribunal. The direction passed by this Tribunal and Hon'ble Supreme Court, the respondents have extended the benefits of the judgment and order in Purnendu Mukhopadhyay's case in succession to other similarly situated and similarly circumstanced persons with Sri Purnendu Mukhopadhyay and others thereby indulging in hostile discrimination to the present applicants. It is incumbent upon the respondents to act in consonance with the spirit and directions of this Tribunal as upheld by the Hon'ble Supreme Court to extend similar benefits of the judgment and order as passed in the case of Sri Purnendu Mukhopadhyay and Ors. (Supra) to the present applicants without resorting to any plea whatsoever.

5. The aforesaid non-action/inaction of the respondents to allow the petitioners the same benefits to the present applicants as beneficiaries of the said judgment and order is in absolute infringement of rights guaranteed under Articles 14 and 16 of the

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similar benefits to be extended to the present applicants as well without committing any further discrimination among the same class of persons so as to uphold the principles of natural justice.

6. The respondents have filed their written statement on 23.07.2012 and stated that on the basis of information gathered from the Units/Factories, the identities of the applicants have been tentatively established. The claims of the applicants that they are similarly situated to the beneficiaries of CAT Calcutta's order dated 09.07.1990 as modified vide Hon'ble Apex Court's order dated 05.08.1993 is entirely vague, unfounded and misleading. The names of individuals, similarly situated to the beneficiaries of T.A. 1069 of 1986 are enlisted in the two OFB orders No. 3265/CA-2322/91/PM/GSF/A/NG dated 04.11.1993 and 3265/GKAR/OA 247 (94)/A/NG dated 31.08/01.09.2000 respectively. The names of the applicants are not enlisted in these tow OFB orders. Hence they cannot claim to be similarly situated to the beneficiaries of T.A. 1069 of 1986. At the time of publication of the said two OFB orders in 1993 and 2000 respectively, the applicants did not make any claim that they are similarly situated to the individuals listed in those orders. If at all they were similarly situated, they would have requested for inclusion of their names in 1993-94 and/or 2000-01.

Niranjan Ray

7. Respondents further stated that the applicants had chosen to remain quiescent at that time. After a lapse of decades, they have now made the claim all of a sudden probably being allured by the fact that the beneficiaries are being paid arrear wages (for period not worked) in compliance of the order of the Hon'ble Apex Court. It is evident from the deliberate silence of the applicants for many years that the present claim has been made with intent of undue monetary gain taking advantage of the changed circumstances. However, such unfair attempt is not only futile but also barred by limitation after lapse of so many years since the publication of the two orders in 1993 & 2000 respectively.

8. Respondents further stated that the Hon'ble Supreme Court has extended the benefits of the order categorically to all those who had come within the field of eligibility of securing upto 5% less from the cut-off mark. Therefore, the benefit were admissible not to all and sundry but only to those specific individuals who had scored upto 5% less than the cut-off mark. This order of the Hon'ble Supreme Court has already been complied with vide OFB order dated 04.11.1993. This order contains the names of individuals who came in the field of eligibility by securing upto 5% less from the cut-off mark. The applicants in the instant O.A., however, had not come within the field of eligibility as defined by the Hon'ble Apex Court

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and hence their names did not find mention in the OFB Order dated 04.11.1993 re-fixing the seniority of individuals who had come in the field of eligibility.

9. According to the respondents, although it is not disputed that in compliance of Hon'ble Apex Court's order dated 05.08.1993, the benefits of re-fixation of seniority was granted to all those who had scored 5% less than the cut-off mark, the claim of the applicants that they are similarly situated with the beneficiaries of this Tribunal dated 09.07.1990 passed in T.A. No. 1069 of 1986 is incorrect as well as misleading and is vehemently opposed, since they did not come within the ambit of eligibility by securing upto 5% less from the cut-off mark.

10. Heard Mr. B.R. Das and Mr. N. Roy, learned counsel for the applicants and Mr. L.K. Chatterjee and Mr. S.K. Ghosh, learned counsel for the respondents. Perused the pleadings carefully and the precedents relied upon.

11. Keeping in view of the above, we deem it fit and proper to direct the respondent authorities to give opportunity of personal hearing to all the individual employees. Accordingly, applicants are directed to submit all the relevant papers to substantiate that they are similarly situated to that of the applicants in T.A. No. 1069/1986, Purnendu Mukhopadhyay Vs. UOI & Ors., which ultimately travelled

Minu Ray, M.A.

to the Hon'ble Apex Court vide Civil Appeal No. 2322/1991 as well as CPC No. 1801/2008. Applicants will make individual/joint representation before the appropriate authority within a period of two months from the date of receipt of the order. On receipt of such representation/representations, respondent authorities, i.e. competent authority (General Manager of the respective factories), shall constitute a committee and fix date/dates affording opportunity of being heard personally within a period of four months thereafter to assign as to the veracity of the case of the individual with the case of the Purnendu Mukhopadhyay and the committee thereafter shall prepare the report which will be submitted before the competent authority within a period of 10 days thereafter and the competent authority shall pass a necessary order within a period of one month thereafter and if the applicants are found similarly situated, the similar benefits shall be extended to them immediately.

12. With the above direction, all the O.As. stand disposed of accordingly.

13. M.A. No. 350/00199/2015 which has been filed for substitution of the petitioners namely Sabita Kar, widow of Late Manoranjan Kar and Indranil Kar, son of Late Manoranjan Kar, who was an applicant No. 17 in O.A. No. 350/00142/2013 also stands disposed of. Registry is hereby directed to insert the names of the

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two petitioners namely Sabita Kar and Indranil Kar in place of Manoranjan Kar in O.A. No. 350/00142/2013.

14. There shall be no order as to costs.

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(NEKKHOMANG ~~WEIHSIAU~~)
MEMBER (A)

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(MANJULA DAS)
MEMBER (J)

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