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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.595 OF 1996
Cuttack this the 29th day of January/2003

Babaji Samal ... Applicant(s)

VERSUS

Union of India & Others ... Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *uv*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *uv*

B.N. Sasmal
(B.N. Sasmal)
VICE-CHAIRMAN

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ORIGINAL APPLICATION NO. 595 OF 1996
Cuttack this the 29th day of January/2003

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

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Babaji Samal, aged about 48 years
Son of Late Bali Samal of Village-Badapal
PO-Pankapal, P.S. Kujang, Dist-Jagatsinghpur

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Applicant

By the Advocates

M/s. Debaraj Ray
S. Barik

VERSUS.

1. Union of India represented through
General Manager, South Eastern Railway
Garden Reach, Calcutta-48
2. Divisional Railway Manager(Personnel)
Khurda Road, South Eastern Railway,
Dist-Khurda (Jatani Division)
3. Asst.Engineer, Central,
South Eastern Railway,
Cuttack, Town/PS-Cuttack

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Respondents

By the Advocates

Mr. Ashok Mohanty

O R D E R

MR. B.N. SOM, VICE-CHAIRMAN: In this Original Application
under Section 19 of the Administrative Tribunals Act, 1985,
the applicant (Babaji Samal) has prayed that the Respondents
be directed to consider his case for temporary absorption
as casual labourer in pursuance to the notice dated 28.5.1996
issued, inviting applications from fresh faces, by relaxing
the upper age limit.

2. The facts of the case are that the applicant
had worked as casual labour from 14.4.1973 to 12.9.1973
in Khurda Division of S.E.Railways. After his brief spell

of engagement he was never called for further engagement. However, he was attracted by the notice issued by the Divisional Railway Manager (P) of Khurda Road Division on 28.5.1996, inviting applications from fresh faces for engagement as casual labourers in the Engineering Department. He was eager to apply for the same, but was dismayed to find that the upper age limit was put at 33 years on the date of application and the applicant became ineligible on that count. However, he applied for engagement in response to Annexure-1 (notice dated 28.5.1996). He also appeared before the concerned authority on the prescribed date. He also alleges at the same time that he "was not" called for the interview/viva voce/physical test for the reasons best known to the Respondents. Aggrieved by the said decision of the Respondents, the applicant has approached this Tribunal for redressal of his grievances.

3. Respondents have filed their counter refuting the allegations made by the applicant. It has been stated by them that the applicant was called for the interview on 27.6.1996, he appeared before the Board, but was not selected not being the best candidate among those who appeared before the Interview Board. They have also stated that the applicant was called for the interview by giving age relaxation as per the direction of the Railway Board.

4. I have also heard Shri D. Ray, the learned counsel for the applicant and Shri Ashok Mohanty, the learned senior counsel for the Respondents and perused the records.

5. During oral argument, Shri Ray, counsel for the applicant referred to Original Application Nos. 439, 481, 616,

670,772,793,801,811,862,863,864,912,924 & 932 of 1996 and pleaded that as the decision of this Tribunal in the above mentioned Original Applications has been stayed by the Hon'ble High Court of Orissa in O.J.C. No. 13330 of 1999, this Original Application should lie over till the decision in the said O.J.C. The learned senior counsel for the Respondents, however, opposed the said plea of the counsel for the applicant on the ground that the present O.A. and the other O.As referred to by the former are not on the same footing. I also agree with the argument of Shri Mohanty on the ground that the relief sought for by the applicant in his O.A. is very specific with regard to his absorption as casual labour in pursuance to notice dated 28.5.1996, by granting him relaxation in upper age limit. Further, the applicant has not made any reference to those O.As decided by this Tribunal, now under challenge before the Hon'ble High Court of Orissa, nor any prayer has been made by the applicant at any point of time that his application may be decided on the basis of the initial judgment in O.A. Nos. 439, 481, 616 670,772,793,801,811,862,863,864,912,924 and 932 of 1996. Further more, on the facts and circumstances of the case it is found that the grievance of the applicant that he could not get the job advertised by the Respondents on 28.5.1996 because he was overaged is incorrect. The fact is, he was given relaxation of age being a retrenched casual labour and he appeared before the Interviewing Board, but could not succeed on merit. In view of these facts,

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his application fails. Accordingly, the same is rejected being devoid of merit. No costs.

h.s.m
(B.N. SOM)
VICE-CHAIRMAN

By/