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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 744 OF 1996  
Cuttack this the 26<sup>th</sup> day of June/2003

Indramani Baral & Ors.

Applicants

-VERSUS-

Union of India & Ors.

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *No.*

*[Signature]*  
26/06/03  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)

*[Signature]*  
(B.N. SOM)  
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.744 OF 1996  
Cuttack this the 26th day of June, 2003

CORAM:

THE HON'BLE MR. B.N. SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDICIAL)  
...

1. Indramani Baral aged about 48 years,  
S/o. Dadhi Baral, Vill-Termonpur, PO-Rahama,  
PS-Tritol, Dist-Jagatsinghpur
2. Khirod Charan Das aged about 46 years, S/o.Udayanath  
Das, Vill-Badabalikani, PO-Anulipatana, PS-Kujanga,  
Dist-Jagatsinghpur
3. Kulamani Rout aged about 41 years, S/o.Adikanda  
Rout, Vill-Badabalikani, PO-Anolipatna, PS-Kujanga,  
Dist-Jagatsinghpur
4. Bhajanamanda Das, aged about 43 years, S/o.Hadibandhu  
Das, Vill-Rougas, PO-Raham, PS-Tritol, Dist-Jagatsinghpur

... Applicants

By the Advocates

Mr.S.C.Samantray

-VERSUS-

1. Union of India represented through General Manager,  
South Eastern Railway, Garden Reach, Calcutta-43
2. Divisional Railway Manager (Personnel), Khurda  
Road, South Eastern Railway, Dist-Khurda(Jatani Division)

... Respondents

By the Advocates

Mr.D.N.Mishra

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O R D E R

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MR.B.N.SOM, VICE-CHAIRMAN : Applicant (Shri Indramani Baral)  
along with three others have filed this Original Application  
under Section 19 of the Administrative Tribunals Act, 1985,  
challenging the notification dated 28.5.1996 (Annexure-2)  
issued by the Divisional Railway Manager(Personnel) South  
Eastern Railway, Khurda Road, inviting applications for

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engagement of casual labourers in the Engineering Department from the open market prescribing upper age limit and thereby eliminating the applicants, who had rendered service in different spells as casual labourers. They have further stated that their cases are liable to be considered on compassionate grounds.

2. The facts of the case, as stated by the applicants are that their services have been utilised by the Respondents- Railways and that they are waiting to get similar offer of engagement from the Respondents from time to time. However, from the notification dated 28.5.1996 (Annexure-2), the applicants came to know that the Respondents, without calling them for the jobs available, had gone on recruiting 907 casual labours from the open market for 119 days of engagement upto 31.10.1996. The notification for recruitment also stipulated that the candidates for the jobs should be between the age of 18 and 33 years which is relaxable upto 5 years and 3 years in case of SC/ST and other backward classes, respectively. It is stated that by the decision of the Respondents in stipulating the upper age limit, the applicants have become ineligible for being absorbed/appointed against those vacancies. They have also alleged on the part of discriminatory treatment/of the Respondents and that it was a ploy for eliminating the retrenched candidates. They have further stated that some of the employees agitated the similar nature of grievance before this Tribunal in O.A. Nos.439/96 and 481/96, wherein the Tribunal had directed the Respondents to consider the cases of the applicants therein along with others during the interview

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as per Annexure-2. Thus, the applicants having <sup>other</sup> no/alternative have approached this Tribunal in the instant O.A. for redressal of their grievance and have prayed for direction to be issued to Respondents-Railways to sympathetically consider their cases for temporary absorption as casual labours in pursuance to the notification dated 28.5.1996 under Annexure-2.

3. The Respondents have contested the application by filing their counter. They have disclosed that the interim order dated 10.10.1996 passed by this Tribunal could not be implemented on the ground that the selection process was <sup>had been</sup> by then completed and the panel/drawn up, part of which was published on 10.10.1996, (i.e. the date of issuing interim orders). The Respondents have also raised objection to the maintainability of this O.A. on the ground of limitation. They have, ~~however~~, stated that the cause of action, if any having ~~been~~ arisen in the year 1971, this O.A. filed in the year 1996 is hit by limitation. The Respondents have disclosed that the applicants had never approached the administration for engagement after their retrenchment till filing of this Original Application, Referring to Railway Board's instruction in Estt.Srl.No.58/87 and 308/87, the Respondents have submitted that opportunity had been given to all discharged casual labours of pre- and post-1981 period by giving a cut off date vide their office letter No.P/Engg/CL/screening dated 16.11.1989 to the concerned Units for wide publication for entertaining applications for re-engagement whenever the work was available. By dint of this exercise, they (Respondents) have been able

to prepare a seniority list of 744 labourers which was published for information of all concerned. The Respondents have submitted that although retrenched casual labours were to be preferred over the candidates from the open market (as per Annexure-2 and Annexure-R/4) the applicants had not availed of that opportunity. With regard to vacancy recruitment notification dated 28.5.1996, it has been submitted that Res. No.2, after obtaining special order of the General Manager, had taken action for engagement of casual labours for 119 days or upto 31.10.1996, whichever was earlier, for meeting some seasonal requirement during the monsoon. The main thrusts of submissions made by the Respondents are that the applicants having not availed of the repeated opportunities offered to them and having not approached the authorities at any point of time for relief, this O.A. besides being not maintainable is liable to be dismissed on merits also.

4. We have heard the learned counsel for both the parties and also perused the records placed before us.

5. Applicants have not filed any rejoinder refuting the stand taken by the Respondents in their counter. We also could not get any satisfactory reply to our query as to why the applicants having been retrenched in July, 1977, could not apply for enrollment in live casual register in pursuance of Annexures-R/2 and R/3. Be that as it may, we have no doubt that it is too late in the day for the applicants to approach the Tribunal in this O.A. with such grievances which they had never placed before the authorities at the first instance.



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6. For the foregoing reasons, as discussed above, this O.A., besides being barred by limitation, is devoid of merit; inasmuch as the applicants had never applied for enrollment in response to the open advertisement. They, since 1977, after their initial engagement, remained in long slumber and woke up one day in 1996 to file this O.A. This is not enough an effort to secure one's rights and privileges. They had shown utter negligence of their rights and interests for good over 20 years. They have in the process equalled the record of Mr. Rip Van Winkle and that's all to their credit. We find it difficult to see any merit in any of their submissions and hold this O.A. being devoid of merit in all respects. The same is, therefore, dismissed. No costs.

*[Signature]*  
(M.R. MOHANTY)  
MEMBER (JUDICIAL)  
*26/06/03*

*[Signature]*  
(B.N. SOM)  
VICE-CHAIRMAN

Biv/