



FORM No. - 4

See Rule (12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH

ORDER SHEET

Application No. 897 of 2002
Applicant(s) B V Ramana / 808 Respondent(s) U.O.I.

Advocate for Applicant(s) M/S: Y. Mohanty Advocate for Respondent(s)

S. K. Beura

B. N. Mohanty - 2

S. N. Mishra

Miss M. Jema

S. Jema

N. R. Samal

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

REGISTER

Registrars

1. ORDER DATED 26-09-2002.

10 (ten) Applicants have joined together in this Original Application to prosecute this case jointly. A Misc. Application has also been by them seeking permission to prosecute this case jointly. Having heard the Counsel for the Applicants and having perused the records of this case, permission to prosecute this case jointly by 10 (ten) applicants is allowed.

Register

On Memo.

Placed before Bench
for orders pl

DR
26.09.02

DR
26.09.02

Bench

② OA. 897/2

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
<p>Copies of order Dt. 26.9.02 communicated to all petitioners & to respondents along with copies of OA to all respondents.</p> <p>free copies of said order may be handed over to the counsels for petitns. and to Mr. D.N. Mishra, Counsel for Dly.</p> <p style="text-align: right;">/ S.M.</p> <p style="text-align: right;">B.M. 6.11.02 S.M.</p>	<p>subject to payment of Rs. 450/- in shape of I.P.O. by 4th October, 2002. Mr. Mohanty, Ld. Counsel for the Applicants undertakes to file IPO worth of Rs. 450/- by 4-10-2002.</p> <p>Perused the Office note, The Advocate for the Applicants undertakes to ensure the signature of the Applicant No.1, Shri B. V. Ramana on each page of the O.A. On the face of the said undertakings and upon filing of the IPO worth of Rs. 450/-, this OA be registered and separate numbers be assigned to each of the Applicants, from 2 to 10 & this OA be confined to Applicant No.1 for the statistical purpose. M.A. filed for permission to prosecute this OA is accordingly disposed of.</p> <p style="text-align: right;">(Manoranjan Mohanty) 26/09/2002 Member (JUDICIAL)</p> <p style="text-align: right;">J</p>

3

O.A.NO. 897/2002 to 906/02

Order No. 2. DT. 26-09-2002.

Heard Mr. Mohanty, learned Counsel for the Applicants and Mr. D.N. Mishra, learned Standing Counsel for the Railways/ Respondents ; on whom a copy of this Original Application has been served .

2. Under Advertisement dated 30-05-1996, there was a drive to recruit 737 Casual Labourers in Waltair Division of South Eastern Railways, as per the following details:-

"Waltair (Track Spl.)	-	67
Vizianagaram. ...	-	100
Srikakulam. ...	-	200
Rayagada. ...	-	100
Arukulam. ...	-	100
Koraput. ...	-	70
Jagadalpur. ...	-	30
Kirandul. ...	-	70
TOTAL:-		<u>737</u>

3. Accordingly, selections were taken place at different stations named above. While results of the candidates were declared at all other places, (and the candidates at those selected places were given engagement), the results of the candidates, whose test were taken at Rayagada, were not declared at all.

4. In the said premises, one Shri S.V.S. G. Murali Krishna Rao approached this Tribunal in O.A. No. 638 of 1997 for redressal of his grievances. It appears that said Shri Murali Krishna Rao was one of the candidates for the post of Casual Labourer at Rayagada Station.

5. In para 4-4 of the said O.A.No. 638/97, the Applicant had stated as follows:-

U
O.A.NO. _____/2002.

Contd....Order....Dt. 26-09-2002.

*That it is submitted that the candidates who appeared from the other Centres other than Rayagada were selected, empanelled and were offered with orders of appointment as casual labourer upto 30-10-1996 and again their services were extended/were given re-appointment in the month of June, 1997 and were allowed to continue and this as per the Rules of the Railways, they were given temporary status and were given the scales of pay of Rs. 775-1025/- with all allowances and with all privileges and benefits applicable to a temporary Railway employee.

Further it is emphatically submitted that even though under the same notification, persons appeared from different centres as has been stated earlier were given benefits, but the result of the candidates those who appeared from Rayagada centre were not declared. Thus the 100 casual labourers as were proposed to be engaged are not employed though they were subjected to the same rigorous test, as other candidates of other centres faced. Thus, they were denied their legitimate right of appointment along with other selected candidates".

In reply, the Respondents of the said O.A.No.

638 of 1997 disclosed in para-2 thereof as under:-

*That in response to the averments in para 4.4 and 4.5 of the Original Application, it is humbly submitted that the applications received in the Office of the Respondent No.3 in response to the advertisement under Annexure-I were serially numbered and the said list was presented alongwith the applications of the candidates to the Selection Officers i.e. D.E.N. (HQ), Waltair and S.P.O. (Con), Waltair, who were nominated by the Respondent No.2. It will be relevant here to submit that during the period from 9.7.96 to 21.7.96, the aforesaid officers conducted the test and concerned papers alongwith the applications of the candidates attended were taken by the Selection Officers to Waltair for further action. But for some reason, the result of the said selection has not yet been published".

....

76

5
5
O.A.NO. _____/2002.

Contd....Order.....Dt. 26-09-2002.

6. In the aforesaid O.A. No.638/1997, it was submitted on behalf of Applicant therein, that by declaring the result of the candidates selected at all other places, than Rayagada, several similarly placed persons, not only got the employment but also have, in the meantime, been conferred with "temporary status". Therefore, it was stated by the Applicant in the said OA No.638/1997 that there was a gross discrimination, offending Constitution of India. It was also the case of the Applicant in the said OA No.638/1997 that there had been a frustration of "Legitimate expectation".

7. On the face of the aforesaid rival contentions, raised in O.A. No.638/1997, this Tribunal disposed of the said O.A.N&O. 638/97, on 16-04-2002, with the following analysis/observations and directions:-

"The public officers/authorities, who have been made Respondents in this case, have not come out with clean statement in their counter as to why the results of the candidates, who faced the test at Rayagada, have not yet been published/were not published. This itself amounts to misconduct. Discrimination is definitely apparent on the face of the records".

In the said premises the General Manager, S.E.Railways (Respondent No.1) should enter into an inquiry to fix the responsibility on the public officers for such lapses. Since there has been violation of Article 14 of the Constitution of India, by show of discriminatory treatment, the Respondents are called upon to provide engagement to the Applicant and to give him all consequential benefits."

....

5

Contd.....orderdt. 26.09.2002

8. In the present case, all the ten(10) Applicants claim that they were candidates for being engaged casually at Rayagada Station of Waltair Division of South Eastern Railways. They have disclosed, in the present Original Application (at Annexure-2) that the grievances of the Applicants were subject matter of consideration by the Collector and District Magistrate of Rayagada(Orissa) in presence of the representatives of the District, representatives of the Railway Administration and representatives of the candidates, on 16th June, 1998; when the Railway Administration pointed out that due to prevailing ban on the engagement of fresh faces as casual labour the said panel was not available to be published. However, on the suggestion of the Collector and District Magistrate of Rayagada, it was agreed to by the representatives of the Railways to refer the matter to the appropriate authorities of the South Eastern Railways (HQ) and to the 'Railway Board' to obtain permission to treat the case as a special one and only after obtaining permission, the panel shall be published and the empanelled persons to be engaged. Despite that no heed having been paid to the grievances of the Applicants, they have filed the present Original Application under section 19 of the Administrative Tribunal Act, 1985 for redressal of their grievances.

9. Since this Tribunal has already disposed of a case of a similarly placed candidate of Rayagada Station

....

4
J

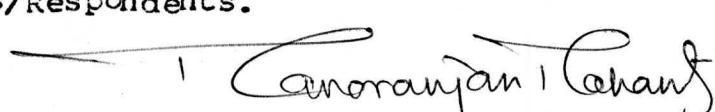
7
O.A.NO. _____/2002.

Contd....Order..... Dt. 26-09-2002.

(referred to above), this present Original Application is disposed of with a direction to the Respondents to publish the panel of selected candidates (those who took the test at Rayagada) and to provide them employment/engagement, in order to remove the discrimination to such of the selected candidates.

10. With the above observations and directions this Original Application is disposed of at the admission stage. No costs.

Send copies of this order (alongwith the copies of the Original Application and enclosres) to the Respondents, free copies of this order be sent to each of the Applicants in the address given in the O.A., and free copies of this order be given to learned counsel for the Applicants and Mr. D.N. Mishra, learned standing Counsel for the Railways/Respondents.


(MANORANJAN MOHANTY)

MEMBER (JUDICIAL) 26/09/02

KNM/CM.