



FORM No. - 4

See Rule (12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH

ORDER SHEET

Application No.

907

of 2002

(C.A. No. 913-940 of 2002)

Applicant(s).....

A. Gouri Shankar & others

Respondent(s).....

U.O. 1 & others

Advocate for Applicant(s) m/s.

Yeshan Mohanty

Advocate for Respondent(s).....

S. K. Beura

Miss. Mandakini Jena

Mrs. Sucheta Jena

N. R. Samal

NOTES OF THE REGISTRY**ORDERS OF THE TRIBUNAL****1. ORDER DATED 26-09-2002.**

29 (twenty nine) Applicants

have joined together in this Original Application to prosecute this case jointly. A petition has also been filed seeking permission to prosecute this case jointly and having heard the counsel for the Applicants and having perused the records of this OA, permission to prosecute

DR

Memo filed in the Court to be taken up today

Registrar

On Memo

26.09.02

Placed before Bench for orders

26/9/02 Bench

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

this Original Application jointly by twenty nine applicants is allowed subject to payment of Rs.1400/- in shape of I.P.O. by 4.10.2002. Mr. Mohanty, learned Counsel for the Applicants undertakes to file I.P.O. worth of Rs.1400/- by 4-10-02.

Perused the Office note. The Advocate for the Applicants undertakes to ensure the signature of the Applicant No.1 Shri A Gouri Shankar, on each page of the Original Application. On the face of the said undertakings and upon filing of the I.P.O. worth of Rs.1400/-, this O.A. be registered so far as Applicant No.1 is concerned and separate OA numbers be assigned to other each of the applicants from 2 to 29 for statistical purposes.

MA for permission is accordingly disposed of.

Label
26/09/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

KNM /CM.

Contd....2/-

As per order dt. 26/9/02
petitioner Counsel
has filed Rs. 1400/-
CIPD)
for P. fees. and
new O.A. nos. ~~also~~
allotted.

By
8/10/02

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O.A.NO. 907 /2002.

2. ORDER DATED 26-09-2002,

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 Spd) | : | 67 |
| Vizianagaram. | : | 100 |
| Srikakulam. | : | 200 |
| Rayagada. | : | 100 |
| Arukulam. | : | 100 |
| Koraput. | : | 70 |
| Jagadalpur. | : | 30 |
| Kirandul. | : | 70 |
| TOTAL. | | : 737 |

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

3. In the said premises, one Sri S.V.S.G. Murali Krishna Rao, approached this Tribunal in OA No.638/97 for redressal of his grievances. It appears that said Sri Murali Krishna Rao was one of the candidates for the post of Casual Labourer at Rayagada station.

4. In para 4.4 of the said OA No.638/97, the Applicant had stated as follows:-

" 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 31-10-1996 and again their services were extended/were given reappointment in the month of June, 1997 and were allowed to continue and this as per the Rules of the Railways

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O.A.NO. 907 /2002.

Order No. 2, Dt. 26-09-2002.

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 Rly. 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 alongwith other selected candidates*.

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

633/97 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-1 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 there 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 said selection has not yet been published.

5. 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 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

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O.A.NO. 907 /2002.

in the said O.A.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'.

6. On the face of the aforesaid rival contentions, raised in O.A.No.638/1997, this Tribunal disposed of the said O.A.No.638/1997, on 16-4-2002, 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*.

7. In the present case,all the 29(twenty nime) 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 O.A.(at Annexure-2) that the grievances of the Applicants were subject matter of consideration by the

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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 Railway (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.

8. Despite that no heed having been paid to the grievances of the Applicants, they have filed the present U/s. 19 of the A.T. Act, 1935
O.A. for redressal of their grievances.

9. Since this Tribunal has already disposed of a case of a similarly placed candidate of Rayagada station (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. *f*

O.A.No. 907 / 2002

Send copies of this order (alongwith the copies of the Original Application and enclosures) to the Respondents. Free copies of this order be sent to each of the Applicant, in the address given in the Original Application, and free copies of this order be given to the learned counsel for the Applicants and Mr.D.N.Mishra, learned Standing Counsel for the Railways/ Respondents, on whom a copy of this application has been served.

Manoranjan Mohanty
26/09/2002
(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

KNM/CM.

ORDER DATED 11.7.2003.

By filing M.A.No.452/2003, the Applicants have drawn our attention to the factum of non-compliance of the order dt. 26.9.2002 passed in the present O.A.No. 907/2002. Having heard the counsel for the parties this M.A.No.452/2003 is directed to be converted as C.P. and separate file for CP be opened, and, notices be issued to the Respondents in the O.A./MP/CP, calling upon them to file their show cause, if any, within a period of six weeks.

The new CP may be tagged with the RA No.212/2002 said to have been filed by the Respondents.

Copy of order dt. 26/9/02

issued to both the parties by posts. (A copy enclosed herewith for respects.)

The same copy of order issued to the counsel for both side.

By S.C. 11.10.02

10/10/02

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