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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NOS.1076, 1077, 1078,
1079, 1080, 1081
1082, 1083, 1084
& 1085 of 2002

Cuttack this the 26th day of Dec./2002

IN OA 1076/2002

M.Rama Rao, aged about 32 years,
Son of Suri of Railway Colony,
PO/PS/Dist-Rayagada

IN OA 1077/2002

D.Venkan Naidy, aged about 35 years,
S/o. Pedanarabayya of Railway Colony,
PO/PS/Dist-Nayagarh

IN OA 1078/02

P.Krishna Rao, aged about 34 years,
S/o. Varahalu of Railway Colony
At/PO/PS/Dist-Rayagada

IN OA 1079/02

Siba Prasad Padhi, aged about 30 years,
S/o. R.Ch.Padhi of Railway Colony,
Rayagada, PO/PS/Dist-Rayagada

IN OA 1080/02

Ch.Narayan Swamy, aged about 28 years,
Son of Raja Rao of Railway Colony,
At/PO/PS/Dist-Rayagada

IN OA 1081/02

S.Laxman Rao, aged about 32 years,
S/o. Rama Murty of Railway Colony,
PO/PS/Dist-Rayagada

IN OA 1082/02

K.Satayanarayan, aged about 32 years,
S/o. Ramaswamy, of Railway Colony,
PO/PS/Dist-Rayagada

OA 1083/02

Chokkapo Sriramulu, aged about 37 years,
Son of Chinna Rao of Railway Colony,
PO/PS/Dist-Rayagada

P.T.O.

IN OA 1084/02

N.Sankara Rao, aged about 28 years,
S/o. Kataiak of Railway Colony,
At/PO/PS-Rayagada

IN OA 1085/02

S.Venkatappala Naidu, aged about 32 years
S/o. of Narayan of Railway Colony,
At/PO/PS/Dist-Rayagada

... Applicants

By the Advocates in all the OAs M/s. Y.Mohanty
S.K.Seura
B.N.Mohanty
S.N.Mishra
M.Jena
S.Jena
N.R.Samal

-vs-

1. Union of India represented through the General Manager, South Eastern Railways, Garden Reach, Kolkata-700 043
2. Divisional Railway Manager, South Eastern Railway, Waltair
3. Assistant Engineer, South Eastern Railways, Rayagada, At/PO/Dist- Rayagada

... Respondents

By the Advocates in all the OAs Mr.R.C.Rath, Standing Counsel/Railways

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O R D E R

MR.MANORANJAN MOHANTY, MEMBER(JUDICIAL): Under the 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:

1.	Waltair(Track Spl.)	..	67
2.	Vizianagaram	..	100
3.	Srikakulam	..	200
4.	Rayagada	...	100

5.	Arukulam	...	100
6.	Koraput	...	70
7.	Jagadalpur	...	30
8.	Kirandul	...	70
	TOTAL:	...	737

2. Accordingly the 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 placed were given engagements, the results of the candidates, whose tests 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 O.A. 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 O.A.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 labourers 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 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 through 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. 638/97 dksclosed in Para-2, 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 along with 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 along with 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.638/97, it was submitted on behalf of Applicant therein that by declaring the result of the candidates selected in 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 O.A.No.638/97 that there was a gross discrimination, offending Constitution of India. It was also the case of the Applicant in the said O.A.No.638/97 that there had been a frustration of 'Legitimate Expectation'.

6. On the face of the aforesaid rival contentions raised in O.A.No.638/97, this Tribunal, disposed of the said O.A.638/97 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 clear 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.

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 all the present cases, all the 10(ten) Applicants claim that they were the candidates for being engaged casually at Rayagada Station of Waltair Division of South Eastern Railways. They have disclosed in the present OAs that their grievances were the subject matter of consideration by the Collector and District Magistrate of Rayagada (Orissa) in presence of the representatives of the District Administration, 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 labours the said panel was not available to be published. However, on the suggestion of the Collector and the 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

Original Applications(as aforementioned) under Section 19 of the A.T.Act, 1985, for redressal of their grievances.

9. Since this Tribunal has already disposed of cases of similarly placed candidates of Rayagada station(referred to above), these present Original Applications, are disposed of with direction to 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, these Original Applications are disposed of at the admission stage, by a common order, after giving a chance to the Railway Standing Counsel (on 23.12.2002) to obtain instructions by to-day. The learned Standing Counsel for the Railways Mr.R.C.Rath; who has obtained instructions from the Respondents(under D.R.M.(P) at Waltair's letter dated 05.12.2002) is not in a position to explain as to why the results of the candidates (who had appeared at the test at Rayagada) were not published. His only objection (relating to limitation) has been overruled; because, the Respondents/Railways (right from 1997) have not been able to offer any explanation (what to speak of reasonable explanation) as to why the candidates, who had appeared in the said recruitment test at Rayagada, were discriminated against the candidates who had appeared at the said tests at different other stations of Waltair Division. Save and Except the hyper technical objection pertaining to limitation, the Railways have miserably failed to offer

any explanation to the Tribunal, despite repeated opportunities having been granted to them, for the purpose. However, since all these 10 cases are being disposed of at the stage of admission, no cost is imposed on the Railways.

11. Send copies of this order(along with copies of OAs along with enclosures) to Respondents and free copies of this order be sent to each of the Applicants in the address given in the OAs and free copies of this order be also made available to the learned counsel for the Applicants in all these cases and Shri R.C. Rath, learned Standing Counsel for the Railways/Respondents, (on whom copies of the O.As have been served) appearing for the Respondents.

Sd/- M.R. MOHANTY
MEMBER(JUDL.)

(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)

Bjy/