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O.A.No.224 of 2007
Shri Nirmal Chandra Mishra

Applicant

Vrs.

Union of India and others

Respondents

Order dated 30/5 August 2007

This Original Application was placed before the Bench on 19.7.2007

when the learned counsel for the applicant was absent and the matter was

adjourned to 27.7.2007. On 27.7.2007, ^{- too late} the learned counsel for the applicant ^{and}

^{- for the Respondents} also did not appear on account of a purported resolution passed by the CAT Bar

Association for abstention from Court. In this connection, I would like to refer

to the decision of the Hon'ble Supreme Court in the case of Ramon Services

Pvt.Ltd. v. Subhash Kapoor and others, JT 2000 (Suppl.2) SC 546, wherein

Their Lordships, in paragraphs 24, 27 and 28 of the judgment, have held that no

advocate can take it for granted that he will appear in the court according to his

whim or convenience. It would be against professional ethics for a lawyer to

abstain from the court when the cause of his client is called for hearing or

further proceedings. In appropriate cases the court itself can pass effective

orders for dispensation of justice with the object of inspiring confidence of the

common man in the effectiveness of judicial system. Inaction will surely

contribute to the erosion of ethics and values in the legal profession and the

defaulting Courts may also be contributory to the contempt of the Hon'ble Apex

Court. Keeping in view the ^{- case} ~~above~~ law laid down by the Hon'ble Supreme Court,



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I perused the records and consider the question of admission or otherwise of the O.A. on the basis of materials available on record.

2. From the pleadings of the O.A. and the documents annexed thereto, it is found that Applicant Nirmal Chandra Mishra made an application for engagement as a Casual Labour under the Railways in response to the notice dated 16.5.1996 issued by S.E.Railway and he was issued with the call letter to appear for screening. During the process of selection, it was communicated by the Railway authorities that 812 candidates were to be empanelled for engagement. The applicant has stated that the Respondents published a part panel of only 609 candidates on 10.10.1996 and the result of 103 candidates was not published. It also appears that the applicant and some others approached this Tribunal in O.A.No. 1426 of 2003 with a prayer for a direction to the Respondents to publish the result of the applicants. It is stated by the applicant that the said O.A. has been admitted with an interim order dated 29.1.2004 where the Tribunal has directed the Respondents as follows:

“Pendency of this case shall not stand as a bar before the respondents to publish the results of the applicants.”

On an application being made to the Respondents under the Right to Information Act, the applicant's advocate was intimated vide letter ^{dated 20.11.2006} (Annexure A/10) that select list consisting 611 (KUR 410, CTC 151 and BAM 50) candidates was published on 10.10.1996 and that different unit-wise cut off marks fixed for UR, SC, ST and OBC candidates were also communicated. It was intimated that the applicant appeared for screening for Khurda Road Unit

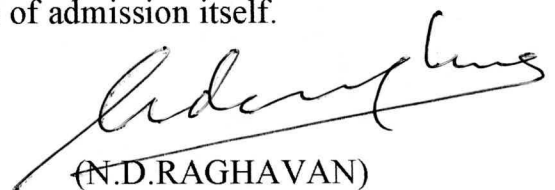
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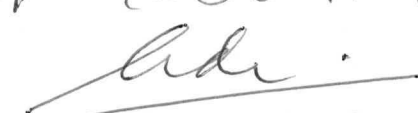
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for which the minimum cut off mark 88 was fixed for UR candidates and that the applicant having secured 85 marks could not be selected.

3. The applicant's grievance is that the same minimum cut off marks were not fixed for all the three Units, namely, Khurda Road, Cuttack and Berhampur. As regards the UR category to which the applicant belongs, the minimum cut off marks of 88 were fixed for Khurda Road, 84 for Berhampur and 89 for Cuttack Unit, which has been alleged by the applicant as illegal and arbitrary.

4. The applicant has therefore filed this O.A. praying for a direction to the Respondents to include his name in the part panel published on 10.10.1996 for the post of Casual Labour by quashing the inhomogeneous distribution of cut off mark for different units (Annexure A/10). It is thus found that the cause of action arose on 10.10.1996. Therefore, the O.A. filed in 2007 is grossly barred by limitation. Though the applicant claims to have made a representation on 15.12.2006 (Annexure A/12), such representation cannot be said to have saved the limitation as the same was belatedly filed for redressing the grievance felt by him.

5. In the result, the Original Application is held to be hopelessly barred by limitation and is rejected in limine at the stage of admission itself.


(N.D. RAGHAVAN)
VICE-CHAIRMAN

fix for pronouncement on
30.08.07 at 1030 AM.

29.08.07