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O.A.NO.227 OF 2007

Shri Abhiram Jaisingh

Applicant

Vrs.

Union of India and others

Respondents

Order dated 24th August 2007

Applicant Abhiram Jaisingh has filed this Original Application on 12.7.2007 _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 of different units of Khurda Road Division as revealed in Annexure A/10 and for other reliefs.

2. Brief facts of the applicant case are as follows:

By Annexure A/1, the O.M. dated 16.5.1996, General Manager, South Eastern Railway, has, inter alia, sanctioned engagement of 907 casual labour (fresh faces) for Khurda Road Division on daily rate of pay as applicable to the area for a period of 119 days or up to 31.10.1996. In response to the circular dated 1.6.1996 the applicant made his application for selection and engagement as casual labour. Thereafter by Annexure A/3, the memorandum dated 21.6.1996 the sanctioned strength was revised to 812 casual labour. The Respondent-Railways by O.M. dated 10.10.1996 published a panel of 609 selected candidates and the result of remaining 203 candidates was not published. Out of the 609 empanelled candidates, only 450 candidates were engaged.



While the matter stood thus, by O.M. dated 31.10.1996 (Annexure A/5) issued by the Railways-Respondents, further engagement of casual labour beyond 31.10.1996 was frozen and it was decided that the process of screening of candidates for casual labour which had already begun should continue and be completed in all respects latest by 21.11.1996 and that no engagement order for any fresh casual labour was to be issued until further decision. Thereafter by O.M. dated 13.4.1998 (Annexure A/7) a list of 159 candidates, out of 609 candidates selected vide panel published on 10.10.1996, who could not receive the engagement orders, was published and engagement orders were issued to them. The applicant along with two others, being aggrieved by the non-publication of a further panel of 203 candidates, approached this Tribunal in OA No. 1426 of 2003 which is still pending.

It is the further case of the applicant that on an application being made by the applicant's advocate to the Respondents under the Right to Information Act, the applicant's advocate was intimated vide letter 20.11.2006 (Annexure A/10) that the select list consisting of 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 for which the minimum cut off



mark 88 was fixed for UR candidates and that the applicant having secured 87 marks could not be selected. After getting all the above informations, the applicant claimed to have made a representation on 25.1.2007(Annexure A/13) claiming engagement as casual labour pursuant to the notification dated 16.5.1996 (Annexure A/1) on the ground that he had secured 87 marks, which is higher than the cut-off marks fixed for Berhampur Unit, i.e., 84.

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.

3. From the averments above it is found that the cause of action first arose on 10.10.1996 when the panel of 611 selected candidates was published and his name was not included therein. The cause of action also arose on 31.10.1996 when Annexure A/5 was issued freezing further engagement of casual labour beyond 31.10.1996 and directing that no engagement order for any fresh casual labour should be issued until further orders thereby causing non-publication of the panel of 201 candidates to meet the sanctioned strength of 812 casual labour. Therefore, the O.A. filed in 2007 is grossly barred by limitation. The applicant's prayer in this O.A. is



to include his name in the panel published on 10.10.1996 and to quash the fixation of different cut-off marks for three Units of Khurda Road Division. It is clearly found that the applicant, in a camouflaged manner, has assailed the legality and validity of the panel published on 10.10.1996 and the selection procedure as well. The representation dated 25.1.2007 (Annexure A/13) filed by the applicant more than 10 years after the cause of action arose, can by no stretch of imagination be held to have saved the limitation for approaching the Tribunal in the present O.A. In any view of the matter, the applicant has also not filed an application explaining the delay as to what prevented him from approaching the Tribunal in the right earnest.

4. In the result, this Original Application, being grossly barred by limitation, is rejected in limine, at the stage of admission itself.


(K.N.K.KARTHIAYANI)
ADMINISTRATIVE MEMBER


(N.D.RAGHAVAN)
VICE-CHAIRMAN