

7  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

OA No.400 of 2007  
Nihar Ranjan Kar ..... Applicant  
Versus  
Union of India & Others. .... Respondents

Order dated: 21st April, 2010

C O R A M  
THE HON'BLE MR.B.V.RAO, MEMBER (JUDICIAL)  
And  
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (ADMN.)

Through notice dated 13.08.1990 (Annxure-A/1) Respondents invited applications from the children of Railway Employees, who had retired on superannuation or voluntarily after 01.01.1987 or would be retiring from service by 31.12.1993 for enrollment of fresh faces as substitutes for utilization against day to day casualties. Applicant's contention is that though he applied and appeared at the test conducted for the above purpose, being the son of a retired railway employee, the Respondents neither published the panel nor provided the engagement to the applicant despite the order dated 16<sup>th</sup> April, 2004 of this Tribunal in OA No.520 of 2001 filed by another similarly situated person like that of the Applicant. Being aggrieved by the said action, the Applicant has approached this Tribunal in the present Original Application seeking the relief as under:

"(i) To direct the Respondents to consider the case of the applicant regarding appointment as substitutes in view of the judgment dated 16/20.04.2004 passed in OA No. 520 of 2001 within time to be stipulated by this Tribunal.

(ii) To direct the Respondents to consider the case of the applicant if found suitable in the fresh screening/test and he should be given proforma seniority assuming the screening tests having been held in the year 1991 and 1992;

(iii) to direct the Respondent Nos.2 & 3 to consider the application of the applicant by relaxing his present age if on the date of his application he was within prescribed age limit in view of judgment dated 16/20.04.2004 passed in OA No.520 of 2001;

B

(iv) To grant any other order/orders, direction/directions be issued to the respondents to grant relief as deemed fit and proper."

2. Factual aspects of the matter have not been disputed by the Respondents in the counter filed in this case. But it has been contended by the Respondents that since Vigilance Department of the Railway seized the entire matter, no finality has been given to the question of enrolment of the candidates who have applied and appeared pursuant to the order under Annexure-A/1 to the OA. As we could see, the main contention of the Respondents is that the OA is not maintainable due to delay and laches in filing the OA.

3. Learned Counsel appearing for both sides have reiterated the contentions raised in their respective pleadings and having heard them at length perused the materials placed on record. We do not agree with the contentions of the Respondents that this OA is not maintainable due to delay and laches because it is settled law that hyper-technical rule of law should not stand on the way of dispensation of justice. Technical objections which tend to be stumbling blocks to defeat and deny substantial and effective justice should be strictly viewed for being discouraged and when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. In view of the above, the objection made by the Respondents in regard to maintainability of this OA is hereby overruled. Law is well settled in a plethora of judicial pronouncements that being model employer, the Authorities ought not to have insisted on each and every similarly situated employee to approach individually the Court for the same relief allowed in favour of an individual. This being the position of law, we find substantial force in the contention of the Learned Counsel for the Applicant to direct the Respondents to examine the grievance of the applicant

(S)

in the light of the decisions of the Hon'ble High Court of Orissa dated 17.03.2006 in WP ( C ) No. 8814 of 2004 for grant of the relief as has been granted to the applicants therein within a period of 90 days from the date of receipt of this order and communicate the result of such consideration to the applicant. Ordered accordingly. In the result, with the aforesaid observation and direction this OA stands disposed of. No costs.

  
(B.V.RAO)  
MEMBER (JUDL.)

  
(C.R.MOHAPATRA)  
MEMBER (ADMN.)