

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No.402 of 2007
Subal Swain & Others Applicants
Versus
Union of India & Others. Respondents

Order dated: 21-04-2010.

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

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Through notice dated 13.08.1990 (Annexure-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. Applicants' contention is that though they applied and appeared at the test conducted for the above purpose being the sons of retired railway employees, the Respondents neither published the panel nor provided the engagement to the applicants despite the order dated 16th 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 cases of the applicants 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 cases of the applicants if found suitable in the fresh screening/test and they 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;

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

2. This OA was filed by the Applicants on 27th September, 2007 in which notice was issued on 12.11.2007 and Ms.S.L.Patnaik, Learned Counsel appeared through vakalatnamā on 5.2.2008 for the Respondents. But in spite of adequate opportunity no counter was filed by the Respondents till date. In view of the above, the request for further time to file counter in this 2007 matter is rejected. We have heard Learned Counsel of the Applicants and Ms.Patnaik, Learned Counsel for the Respondents. Learned Counsel for the Applicants have prayed that as the applicants stand in similar footing as that of the applicants in OA No.520 of 2001 which was disposed of by this Hon'ble Tribunal on 16/20.04.2004 and confirmed by the Hon'ble High Court of Orissa in order dated 17.03.2006 in WP (C) No. 8814 of 2004, the benefits accrued in favour of those applicants should be directed to be extended to the applicants. On the other hand, Learned Counsel appearing for the Respondents submitted that it is not known whether the applicants have really applied and appeared at the test and that the applicant's approach being beyond the time provided in Section 21 of the A.T. Act, 1985, this OA is liable to be rejected. We have considered the submissions made by the Learned Counsel for both sides and perused the materials placed on record. In similar cases we have overruled such hyper technical objection of law of limitation holding that *"law is well settled 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*

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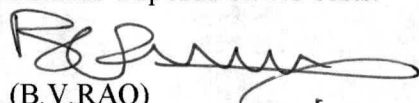
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considerations are pitted against each other, cause of substantial justice deserves to be preferred. Law is well settled in a plethora of judicial pronouncements that being model employer, the Authorities ought not to have insisted on each and every similarly situated employee to approach individually the Court for the same relief allowed in favour of an individual." We do not find any reason to deviate from above view expressed by this Tribunal in earlier cases. Hence, this Original Application is disposed of with direction to the Respondents to examine the genuineness of the claim of the Applicant and if it is found affirmative, then the Respondents should take step to extend the benefits what has been given to the Applicants in WP (C) No. 8814 of 2004 to the Applicants within a period of 90 days from the date of receipt of this order.

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.)