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O.A. No. 846/10

ORDER DATED 12<sup>th</sup> JANUARY, 2011

S.S Rao.....Applicant  
Vrs.  
Union of India & Others .....Respondents

Coram:

HON'BLE MR. C.R. MOHAPATRA, ADMINISTRATIVE MEMBER  
&  
HON'BLE MR. A.K. PATNAIK, JUDICIAL MEMBER

Heard Sri A. Mohanty, Ld. Counsel appearing for the applicant and Sri S.K. Ojha, Ld. Standing Counsel appearing on notice for the Respondents on whom a copy of this O.A. has already been served and perused the materials placed on record.

2. This Original Application has been filed by the applicant with the following prayer:-

- “ (i) To pass necessary order in quashing the order of the Respondent . Vide Annexure-A/10, declaring the same is illegal, improper and not in accordance with law.
- (ii) Further to direct the respondents to accept the opinion of the Expert vide Annexure-A/9 as legal binding and accordingly.
- (iii) Direct that the Respondents to engage the applicant at par with other similar situated Applicants with all consequential service benefits.
- (iv) Any other appropriate order/orders may kindly be passed which would be deemed fit and proper in the facts and circumstances of the case.”

3. The facts of the case, as revealed from the O.A. are that vide advertisement dated 30.05.1996 published by the D.R.M. the then S.E. Railway Waltair Division, the applicant had submitted an application for the post of casual labour on daily rate basis and had appeared the selection/interview on 10.07.1996 along with other candidates. The result of other similarly situated persons were declared and appointment letters issued to them except the applicant. As the result of the applicant was not declared, he preferred an O.A. before the Hon'ble Tribunal, wherein the Hon'ble Tribunal directed the Respondents Railways to declare the result of the applicant vide order dated 10.10.2002 in O.A. No.918 of 2002. The result was declared Vide Annexure-A/3 wherein the applicant found place at Sl. No.26. Instead of giving him appointment, Respondent No.3 advised the applicant vide letter dated 10.11.09 to appeal before Respondent No.2. Thereafter, again the applicant approached the authority by an appeal which is pending (Annexure-A/11) for appointment under the Respondent-Department. The grievance of the applicant is that though he acquired the eligibility criterion, while other candidates who were similarly placed at par with the applicant were given appointment, he has not so far been granted similar benefits notwithstanding his appeal vide Annexure-A/11 made to Respondents. Hence, the applicant has moved this Tribunal with the prayer as referred to above.

4. We have heard the Ld. Counsel for the parties on the question of admission. During the course of hearing, Ld. Counsel submitted that, he will be satisfied if a direction is issued to Respondent No. 2 to consider and dispose of the pending appeal vide Annexure-A/11 with a speaking order within a period of 45 days with intimation to the applicant.

5. Having regard to the submissions made and as agreed to by the Ld. Counsel for the parties, without going into the merit of the case Respondent No.2 is directed to consider and dispose of the pending representations vide Annexure-A/11, as per law within a period of 45 days from the date of receipt of copy of this order, under intimation to the applicant.

6. With the above observation and direction, this O.A. is disposed of at the admission stage itself. No costs.

7. Send a copy of this order along with copy of the O.A. to Respondent No.2 for compliance and free copies of this order be made over to the Ld. Counsel for the parties.

8. Sri A. Mohanty, Ld. Counsel appearing for the applicant undertakes to deposit the postal requisite by tomorrow.

  
JUDL. MEMBER

  
ADMN. MEMBER