

29

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

OA No. 398 of 2009
Cuttack, this the 1st day of May, 2014

CORAM

**HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)
HON'BLE MR. R.C.MISRA, MEMBER (ADMN.)**

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Jayashri Pattanayak, aged about 43 years, D/o. Udaya Chandra Pattanayak at Rajabazar (Arogya Medical Store), PO. Jatni, Dist. Khurda, Pin-752050 (Orissa).

....Applicant

(Advocate(s)-Mr.Dinabandhu Mishra)

-VERSUS-

Union of India represented through –

1. The General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda, Orissa.
2. The Divisional Railway Manager Khurda Road Division, Po.Jatni, Dist. Khurda.
3. The Senior Divisional Personnel Officer, Khurda Road, Division, Po.Jatni, Dist. Khurda.

....Respondents

(Advocate (s)-Mr.T.Rath)

O R D E R

A.K.PATNAIK, MEMBER (JUDL.):

The grievance of the applicant in this Original Application filed U/s. 19 of the A.T. Act, 1985 is that in pursuance of the notification dated 13.08.1990 in which applications were invited from the children of Railway Employees who retired on reaching the age of superannuation or voluntarily after 01.01.1987 or will be retiring from service by 31.12.1993 for enrolment

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30

of fresh faces as substitutes for utilization against day to day causalities in the Railway, he has applied and appeared at the selection conducted by the Respondents. The Respondents cancelled the selection on allegation of irregularity. But no step was taken to conduct selection afresh for enrolment of the children of such of the employees who retired after 01.01.1987 or by 31.12.1993. Further case of the applicant is that some of the similarly situated candidates approached this Tribunal in OA No. 520 of 2001 and this Tribunal by placing reliance on the decision of the Hon'ble High Court of Orissa rendered in OJC No. 6140 of 1999 disposed of OA No. 520 of 2001 on 16.04.2004. Thereafter Respondent-Department carried the matter in writ before the Hon'ble High Court of Orissa and the same was registered as WP (C) No. 8814 of 2004 which was disposed of on 17.03.2006. This case is covered by the aforesaid orders. Hence by filing the instant OA the applicant has prayed for direction to the Respondents to empanel him for appointment as fresh substitute.

2. Respondents have filed their counter heavily contesting the case of the applicants on merit as also on the ground of limitation and have prayed for dismissal of this OA.

3. Heard and perused the records. In course of hearing it has come to the notice that in very many cases in past taking into consideration the objections raised in the instant case, OAs have been disposed of by granting liberty to the applicants therein to make application before the Respondents



enclosing thereto the proof in support of submission of application pursuant to the notification dated 13.08.1999 and on receipt of the same the Respondents will do well in the light of the decision of the Hon'ble High Court of Orissa in WP (C) No. 8814 of 2004 within a stipulated period. One such order of this Tribunal is dated 4th January, 2012 rendered in OA No. 611 of 2009 (Pravat Kumar Ojha and another –Vrs- Union of India and others). We find no reason to deviate from the view already taken by this Tribunal in a series of Original Application filed by similarly situated candidates. We may add that the Respondents being the model employer should not have expected in other words insisted that each and every similarly situated individual to take the shelter of the Court of law for the same relief as granted in a particular case. It is the fiduciary duty of the Respondents/Railways to extend the benefits of a decision to all similarly situated persons so as to bring an uniform legislation in relation to the matters and as it appears for not having granted the said benefit litigations have unnecessary been prolonging which is neither the aim nor object of the legislation. The above view of ours also gained support by the decision of the Hon'ble Apex Court in the cases of K.C.Sharma and others v Union of India and others, 1998(1) AISLJ 54 and **Maharaj Krishan Bhatt and Another Vs State of Jammu and Kashmir and others** (2008) 2 SCC (L&S) 783 in which their Lordships while relying on the provisions enshrined in Articles 14 & 16 have held that once a judgment had attained

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finality, it could not be termed as wrong, and its benefit ought to have been extended to other similarly situated persons. In this connection, we are reminded by a decision, on the question of doctrine of precedence, of the Hon'ble Apex Court rendered in the case ***Sub-Inspector Rooplal v. Lt. Governor, (2000) 1 SCC 644*** in which it has been held as under:-

"12. At the outset, we must express our serious dissatisfaction in regard to the manner in which a Coordinate Bench of the Tribunal has overruled, in effect, an earlier judgment of another Coordinate Bench of the same Tribunal. This is opposed to all principles of judicial discipline. If at all, the subsequent Bench of the Tribunal was of the opinion that the earlier view taken by the Coordinate Bench of the same Tribunal was incorrect, it ought to have referred the matter to a larger Bench so that the difference of opinion between the two Coordinate Benches on the same point could have been avoided. It is not as if the latter Bench was unaware of the judgment of the earlier Bench but knowingly it proceeded to disagree with the said judgment against all known rules of precedents. Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle which every presiding officer of a judicial forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again that precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate court is bound by the enunciation of law made by the superior courts. A Coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of *Tribhovandas Purshottamdas Thakkar v. Ratilal Motilal Patel* while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same Court observed thus:

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33

The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J., in Pinjare Karimbhai case and of Macleod, C.J., in Haridas case did not lay down the correct law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it. Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by courts of coordinate authority or of superior authority. Gajendragadkar, C.J., observed in Bhagwan v. Ram Chand :

'It is hardly necessary to emphasise that considerations of judicial propriety and decorum require that if a learned Single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a Single Judge, need to be reconsidered, he should not embark upon that inquiry sitting as a Single Judge, but should refer the matter to a Division Bench, or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety.'

4. We have examined the facts of the present case vis-à-vis the cases already decided by this Tribunal on similar matters including OA No. 611 of 2009 and do not find any reason to differ from the view already taken earlier. In view of the above, by following the decision of the Hon'ble Apex



34

Court in the case of Sub Inspector Roopal (supra), this Original Application is disposed of by granting liberty to the applicant to make application before the Respondents enclosing thereto proof in support of submission of application in pursuance of the notification dated 13.08.1999 and on receipt of the same the Respondents will do well to consider this, in the light of the decision of the Hon'ble High Court of Orissa in WP (C) No. 8814 of 2004 within a period of 60(sixty) days from the date of receipt of copy of this order. There shall be no order as to costs.



(R.C.MISRA)
Member (Admn.)



(A.K.PATNAIK)
Member (Judicial)