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O.A.No.531/2009

ORDER DATED 12th MARCH, 2010

Coram:

Hon'ble Mr. M. R. Mohanty, Vice-Chairman
Hon'ble Mr. C.R. Mohapatra, Member (A)

Heard Mr. B. Mohanty, Ld. Counsel for the applicant and Mr. S.K. Ojha, Ld. Standing Counsel for the Railways (assisted by Mr. Prakash Ch. Nayak, Chief Personnel Officer of East Coast Railway) and perused the materials placed on record. Respondents side also, in course of hearing furnished some details pertaining to the recruitment in question.

2. Hearing is concluded. Order is dictated and pronounced in the open Court. With the observations and directions contained in the order, vide separate sheets, the Original Application is disposed of. No costs.


MEMBER(A)


VICE-CHAIRMAN

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OA No. 531 of 2009

Tushar Ranjan Barik and others Applicant
Versus
Union of India & Others Respondents

Order dated: 12th March, 2010.

C O R A M

THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN (J)

And

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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Short facts of the matter, according to the Applicants, are that to fill up 5200 posts of Trackman and Helper (Group D) in the East Coast Railway, advertisement under Annxure-1 was issued by the Respondents calling for applications from the qualified eligible candidates. During September & October, 2007 written examination was conducted by the Respondents and the candidates who qualified in the written test were also asked to face the Physical Efficiency Test conducted from 24.3.2008 to 06.04.2008 along with many others. Results of both the tests were published in April, 2008 by the Respondents in which the names of the applicants also appeared. Thereafter, the Respondents ought to have conducted the medical test in order to prepare the final panel for appointment. Similar advertisement was published by the North Western Railway wherein after the final panel published candidates have already joined in their post. Whereas, there has been snail's pace progress in regard to the present selection process. Being aggrieved by such action of the Respondents, Applicants submitted representation. Alleging no progress in spite of representations, they have approached this Tribunal in the present OA (filed on 16.X.2009) seeking direction to the Respondents to declare the final merit list of the Group D recruitment as soon as possible without any further delay.

2. In this case notice was issued to the Respondents by the order of this Tribunal dated 12.11.2009. In spite of adequate opportunity no counter

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was filed by the Respondents. On the request of the Learned Counsel for the Applicants (MA No.97/2010), this matter was listed on 10th March, 2010. As the Counsel appearing for the Railway was on accommodation, Mr. S.K.Ojha, Learned Standing Counsel for the Railway was directed to ensure the appearance of the Chief Personnel Officer, ECoRly, Bhubaneswar to be present with the connected records on 11th March, 2010 to assist this Tribunal in the matter. The matter was listed on 11th March, 2010 and on the request this was posted to today. Today, the CPO, ECoRly, Bhubaneswar appeared with the records. Heard Learned Counsel for the Applicant, Mr. S.K.Ojha, Learned Standing Counsel for the Railway assisted by CPO, ECoRly, Bhubaneswar who was present in this Tribunal and perused the materials placed on record.

3. It was fairly submitted by Mr. Ojha, Learned Standing Counsel for the Railway on instruction that as during the midst of the selection General Election took place during March, 2009, reference was made to the Railway Board whether they should proceed in the present selection. By producing copy of the minutes of the CPO's conference held on 1st May, 2009 in Rail Bhawn, New Delhi he has expressed his inability to proceed in the process of selection. Said minutes reads as under:

"3. Discussion on agenda and other items.

3.1. Group 'D' recruitment.

In the deliberations during the Conference some of the Railways informed that panels for recruitment against Group 'D' vacancies were either finalized or in the final stages of preparation and were awaiting a signal from Railway Board to notify these panels and make recruitment. Railways also desired that suitable instructions/policy guidelines may be issued from Railway Board regarding Group 'D' recruitment pursuant to merger of scales and revised qualifications in the 6th CPC. Railways were advised to await instructions from Board as the issue is in the process of finalization very soon."

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Having heard the parties and upon perusal of the materials placed on record including the minutes quoted above, we find the minutes have no nexus or relevance so far as completion of the present selection process is concerned. We also do not find any valid reason/justification for not proceeding with the process of selection till date. If the process of selection was withheld due to General Election, steps could have been taken by the Respondents soon after the General Election to complete the process especially when only medical test has to take place and final selection list will have to be prepared and published based on the said medical test report. Recruitment/appointment to Group D posts pursuant to an Advertisement issued by other Railways has by now been over and selected candidates have already joined their posts. It is not the case of the Respondents that meanwhile the advertisement or selection, in question, has been cancelled. As such, the Respondents are estopped to take any contrary view than to proceed, complete and publish the final selection list. Hence, the Respondents; especially the Respondent No. 3 (General Manager, ECoRly, Bhubaneswar) is hereby directed to commence the medical test of the candidates who have come out successful in the written test as well as the Physical Efficiency Test and complete the same within a period of three months and publish the final result in consultation with the Railway Board i.e. Respondent No.2.

5. With the aforesaid observation and direction this Original Application stands allowed. There shall be no order as to costs,

(M.R. MOHANTY)
VICE-CHAIRMAN(J)

12/03/10

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

12/3/10