

5
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.611 of 2009
Cuttack, this the 04th of January, 2012

Pravat Kumar Ojha & Anr. Applicants
Versus
Union of India & Others Respondents

For instructions

1. Whether it be referred to the reporters or not?
2. Whether it be sent to the PB for circulation to all Benches of the Tribunal?

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


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

6
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.611 of 2009
Cuttack, this the 04th of January, 2012

C O R A M:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)
A N D
THE HON'BLE MR. A.K.PATNAIK, MEMBER (JUDL)

.....

1. Pravat Kumar Ojha, aged about 41 years, Son of Late Netrananda Ojha.
2. Manoj Kumar Mohanty, aged about 42 years, Son of Late Gokulananda Mohanty.
[Both are resident of Village-Byree, Po.Byree, PS. Badchana, Dist. Jjapur].

....Applicants

By legal practitioners -M/s.N.R.Routray,S.Mishra,
T.K.Chaudhury, Adv.

Versus

1. Union of India, represented through the General Manager, East Cost Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. Divisional Railway Manager, East Coast Railway, Khurda Road Division, At/Po.Jatni, Dist. Khurda.
3. Sr. Divisional Personnel Officer, East Coast Railway, Khurda Road Divison, At/Po.Jatni, Dist. Khurda.

....Respondents

Legal Practitioner -Mr.T.Rath, Counsel.

O R D E R

A.K.PATNAIK, MEMBER (JUDL)

The grievance of the Applicants in this Original Application filed under section 19 of the Administrative Tribunals Act, 1985 is that pursuant to the notice dated 13.08.1990 issued by the Respondent No.3 inviting applications from the children of Railway Employees 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 of fresh faces as substitutes for utilization against day to day casualties and that in pursuance of the said notification,

Abu

they have applied and appeared at the selection conducted by the Respondents. But though the Respondents cancelled the selection on allegation of irregularity no action was taken against the erring official(s) who have committed such irregularity or no action has been taken for conducting fresh selection for enrolment of the children of such of the employees who retired after 01-01-1987 or by 31.12.1993 as laid down in the said notice. It has been stated that similarly situated persons who are the children of the retired employees approached this Tribunal by filling OA No. 520 of 2001 and this Tribunal by placing reliance on the decision of the Hon'ble High Court of Orissa passed in OJC No. 6140 of 1999 disposed of the aforesaid OA on 16.04.2004. Thereafter, the Respondent- Department challenged the said order of this Tribunal before the Hon'ble High Court of Orissa in WP (C) No. 8814 of 2004 and the Hon'ble High Court of Orissa disposed of the matter on 17.03.2006. By filing representation the applicants in the instant Original Application sought the benefits of the order of the Hon'ble High Court of Orissa to them also as extended to the similarly placed persons who were the petitioners. Hence it has been alleged that as the Respondents did not take any action on the same they have approached this Tribunal in the instant Original Application praying for the relief as stated herein below:

- "a) To direct the Respondents to allow the applicants to participate in the process of selection for enrolment of fresh faces substitute"

The Respondents, apart from the merit of the matter, have strongly objected the maintainability of this OA on the ground that except bald assertion the applicants have not filed a piece of paper in support of proof of submission of application in response to the notice dated 13.08.1990 so also on the law of limitation and have prayed for dismissal of the present Original Application.

Al

We have heard Mr.N.R.Routray, Learned Counsel appearing on behalf of the Applicants and Mr. T.Rath, Learned Counsel appearing for the Respondent-Department and perused the materials available on record. We have come across a series of OAs already filed by the children of Railway employees before this Tribunal seeking direction for extension of the benefit of the decision of the Hon'ble High Court in the afore mentioned case wherein the Respondents have raised similar objections and, therefore those OAs have been disposed of by this Tribunal giving liberty to the applicants therein to make application before the Respondent-Department enclosing thereto the proof in support of submission of their respective application pursuant to the notification 13.08.1990 and on receipt of the same the Respondent-Department will take further step in accordance with the direction of the Hon'ble High Court of Orissa given on 17.03.2006 in WP (C) No.8814 of 2004.

In view of the above, by following the decision of the Hon'ble Apex Court in the case of **Sub-Inspector Rooplal v. Lt. Governor, (2000) 1 SCC 644**, this Original Application is disposed of with liberty to the Applicants to make application before the Respondents enclosing thereto 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, referred to above, within a period of 60 days from the date of receipt of application from the Applicants. There shall be no order as to costs.


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


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