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OA No.653 of 2009
G.Venkata Ramana and others.... Applicants
Versus
Union of India & Others Respondents

Order dated: 17th February, 2010.

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

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Heard Mr. S.K.Ojha, Learned Standing Counsel for the Railway appearing on notice for the Respondents both on MA No.756 of 2009 seeking permission to prosecute this OA jointly as also on the merit of the OA and perused the materials placed on record. Prayer made in MA No.756 of 2009 seeking to prosecute this OA jointly is allowed and is accordingly disposed of.

2. So far as OA is concerned, it is noticed that by this OA under section 19 of the Administrative Tribunals Act, 1985, four Applicants have sought direction to the Respondents to declare the result of the test conducted on 10.07.1996 for engagement as Casual labour on daily rated basis for a period of 119 days in the Civil Engineering Department of Waltair Division at Rayagada Centre and based on the result to provide them appointment with all consequential benefits retrospectively. They have also sought to declare that publication of names under Annexure-9 other than the names of candidates who have approached this Tribunal and Hon'ble High Court of Orissa is bad, illegal and void ab initio. The Applicants have now approached this Tribunal on the strength of the order of the Hon'ble High Court of Orissa dated 24.09.2008 in W.P (C) No.5053 of 2003 (Union of India and others v M.Rama Rao and others) as according to them they were also the candidates who appeared at the test conducted at Rayagada pursuant to the advertisement dated 30.05.1996 published by the Respondent No.3 for engagement of 737 Casual labours on daily wage basis for a period of 119 days but they are yet to

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know the result of the said test. It is the case of the Applicants that they are similarly situated like Applicants in the aforesaid case and hence they are entitled to the benefit of the aforesaid decision. This was strongly opposed by Learned Standing Counsel for the Railway appearing on notice for the Respondents, on the ground that they have approached this Tribunal after lapse of several years of completion of the test and that too without making any representation to the Respondents.

3. Having given thoughtful consideration to the grievance of the Applicants, I am of the view that the point of delay raised by the Respondents' counsel cannot be a valid ground in view of the orders of the Hon'ble High Court of Orissa. Hence the same is over ruled. It is trite law that the Government being a model employer, it is not desirable on the part of such employer to insist that all the persons even if similarly situated should approach the Court for the relief which had attained finality by the decision of a Court of law and one such decision of the Hon'ble Apex Court is in the case of **Maharaj Krishan Bhatt and Another Vs State of Jammu and Kashmir and others** (2008) 2 SCC (L&S) 783 in which Their Lordships of the Apex Court in interpreting Articles 14 & 16 of Constitution have held that on facts, once a judgment had attained finality, it could not be termed as wrong, and its benefit ought to have been extended to other similarly situated persons. At the same time, this Tribunal cannot by pass the provisions enshrined in section 20 of the A.T.Act, 1985 which envisages availing of the opportunity of making representation before one could come to the Tribunal for relief.

4. In the above back ground, instead of dismissing this OA on this technical ground, in my opinion, ends of justice would be met if liberty is given to each of the Applicants to submit representation to the Respondent No.2 (being the competent authority to deal with the matter), within a period

of 15 days hence with direction to the Respondent No.2 to dispose of the same with a reasoned order in the light of the observation made above within a period of two months and communicate the result thereof to the Applicants. Ordered accordingly.

5. In the result, this OA is disposed of with the aforesaid observation and direction. Send copies of this order along with OA to the Respondent No.2.


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

