

5

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

OA No.01 of 2010

S.K.Jena & Ors .... Applicants

Vs

Union of India & Others .... Respondents

1. Order dated :14-11-2011.

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

THE HON'BLE MR. A.K.PATNAIK, MEMBER (JUDL)

The Applicants alleging to be the wards of the Ex Railway employees have filed this Original Application under section 19 of the A.T.Act, 1985 praying *inter alia* for direction to the Respondents to allow them to participate in the process of selection for enrolment of fresh faces as Substitute. Respondents have filed their counter praying for dismissal of this OA on the point of limitation so also on the ground that no document has been produced by the applicants that they had ever applied pursuant to the advertisement dated 13.08.1990. By relying on the decisions of the Hon'ble Apex Court in the cases of **JPRavidas and others V Navyuvak Harijan Utthapan Maity Unit Industrial Cooperative Society Ltd. and others, (1996) 9 SCC 300; HMM V Director General, Monopolies and Restrictive Trade Practices Commission, (1989) 6 SCC 485; Kala and another V Madho Prasad Vaidya, (1989) 6 SCC 573,**

6

**Moran Mar Basselios Catholicos V Most Rev Mar Poulose**

**Athanasius, AIR 1954 SC 526 and Moran Mar Basselios**

**Catholicos V Thukalan Paulo Avira and others, AIR 1959 SC**

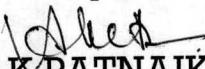
31 it has been stated that law is well settled that the court has to address itself whether the party which has made the allegations has discharged the burden of proving the allegations. More so, the party must succeed on the strength of its own case rather than on the weakness of the case of the other side. Such party is under a legal obligation to prove its case irrespective of the fact whether the opposite party has improved its case or not. Therefore, in the instant case where evidently the applicants have not proved even the basic fact leading to filing of the litigation and discharged their burden of proving the basic facts this OA is liable to be dismissed.

2. Heard Learned Counsel for both sides and perused the materials placed on records. Even granting adequate opportunity, the Applicants have not been able to establish by producing any piece of evidence that pursuant to the advertisement they had ever made any application to participate in the selection which is the basic requirement for establishing the right of the applicants to participate in the process of selection as claimed in this OA. In the above circumstances while holding that the applicants have not been

7

able to make out any case for any of the reliefs claimed in this OA, we hold that in case the applicants produce any evidence in support of filing application pursuant to the advertisement in question, the Respondents may consider the case of such applicants in accordance with Rules/Law.

3. With the aforesaid observation and direction this OA stands disposed of. No costs.

  
(A.K.PATNAIK)  
Member(Judl.)

  
(C.R.MOHAPATRA)  
Member (Admn.)