

S.Simhachalam & Ors. Applicants
Versus
Union of India & Ors. Respondents

2. Order dated : January 29th , 2010.

C O R A M
THE HON'BLE MR.JUSTICE K THANKAPPAN, MEMBER (J)
A N D
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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This case was also heard along with OA Nos. 18, 19, 21, 22 of 2010 and the matter was kept reserved for delivery of orders. While preparing the order, it is seen that out of 20 Applicants in the present OA, 17 of them have earlier approached this Tribunal by filing OA No. 406 of 2009 and this Tribunal disposed of the matter on 2.09.2009 directing the Respondents to consider and dispose of the pending representation of the Applicants. As it appears, the Respondents considered and rejected the prayer of the applicants for casual engagement and communicated the result to the Applicants under Annexure-A/5 dated 9.11.2009. The grounds of rejection of the prayer of the Applicants stipulated in the order of rejection areas under:

It is noted from the available physical test proceedings/records that 7(seven) applicants at Srl.Nos.4,5,13 to 17 in the representation did not appear at the selection test and the remain 10 candidates who had appeared at the test held between 9.7.1996 and 21.7.1996 for selection to the post of 80 casual labour for Rayagada Sub Division did not come out successful.

Therefore, your claim that all 17 candidates mentioned in the OA and also in the said representation were selected in the test for engagement of casual labour in Rayagada Sub Division vide notification dated 30.05.1996, later revised on 26.6.1996 is incorrect. As such, your request for consideration for engagement as casual labour cannot be acceded to."

Aforesaid order of rejection has been assailed by the Applicants in this Original Application. Heard Learned Counsel for the Applicants and Mr. S.K.Ojha, Learned Standing Counsel for the Railway, appearing on notice

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for the Respondents and perused the material placed on record. Learned Counsel for the Applicant has placed no unimpeachable material either along with this OA or during hearing in spite of opportunity to come to the conclusion that there has been miscarriage of justice in the decision making process of the matter. Engagement is subject to passing out the test conducted by the Respondents. Since seven applicants did not appear and ten candidates did not come out successful in the test they cannot claim engagement pursuant to the earlier order of this Tribunal subsequently even if the same has been confirmed by the Hon'ble High Court of Orissa and Supreme Court of India. In view of the above, so far as those 17 candidates this OA stands dismissed and as regards rest three applicants (who were not made as Applicants in earlier OA), the Respondents are directed to consider the case of those Applicants in the light of the observation and direction made in OA Nos. 18, 19, 21, 22 of 2010.

2. In view of the above, MA filed by Applicants seeking permission to prosecute this OA jointly stands disposed of.

3. Send copies of this order along with OA to the Respondents.

Kappan
(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)

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