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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

OA No. 38 of 2010

Cuttack, this the 24th day of September, 2012

Pradip Kumar Behera Applicant
Versus
Union of India & Others Respondents

ORDER

CORAM

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

And

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

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To fill up certain posts of Trackman and Helper (Group D) in the East Coast Railway, advertisement was issued inviting applications from the candidates as per Annexure-1. Written examination was conducted in this regard during September & October, 2007 and candidates who came out successful in the written test were asked to face the Physical Efficiency Test conducted from 24.3.2008 to 06-04-2008. Allegedly there was no progress with regard to the process of selection for sending the selected candidates for medical examination before preparation of the final panel for appointment. Similar advertisement was published by the North Western Railway wherein after the final panel candidates have already joined in their post. Hence this OA has been filed by the Applicant who was one of the candidates in the selection with prayer to direct the Respondents to declare the final merit list of Gr.D recruitment as soon as possible. Counter has been filed by the Respondents on 26.10.2010. We have heard Learned Counsel for both sides and perused the materials placed on record. We find that issues involved in this OA were the subject matter of consideration in another OA No. 531 of 2009 filed by Tushar

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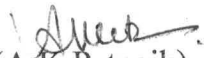
Ranjan Barik and Others. The said OA No.531 of 2009 was disposed of by this Tribunal on 12th March, 2010. The operative part of the order is quoted herein below:

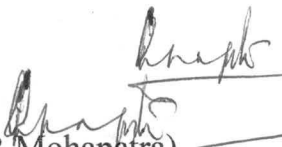
“Having heard the parties and upon perusal of the materials placed on record including the minutes quoted above, we find the minutes have no nexus or relevance so far as completion of the present selection process is concerned. We also do not find any valid reason/justification for not proceeding with 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 have by now been over and selected candidates have already⁷ 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.”

Respondents challenged the above order before the Hon'ble High Court of Orissa in WP (C) No. 10324 of 2010 but the same was dismissed on 08.12.2010 thereby upholding the order of this Tribunal. During hearing of this case, Learned Counsel for the Applicant has fairly submitted that the applicant has meantime been called for medical test in pursuance of the earlier order of this Tribunal as upheld by the Hon'ble High Court of Orissa, referred to above. This was not controverted by the Learned Counsel appearing for the Respondents. In view of the fact that medical test is being conducted by the Respondents, the case of the applicant will receive due consideration along with

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others for empanelment, depending upon the out come of the selection/medical test for appointment in Gr. D posts in the Railway in due course. Accordingly this OA stands disposed of by leaving the parties to bear their own costs.


(A.K. Patnaik)
Member(Judicial)


(C.R. Mohapatra)
Member(Admn.)

