

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK,**

ORDER SHEET

COURT NO. : 1

19.03.2018

O.A./260/430/2016
INTERIM PRAYER WITH
MAINTAINABILITY, REPLY REG
MAINTAINABILITY NOT FILED

ITEM NO:1

FOR APPLICANTS(S) Adv. : Mr. K.P. Mishra

FOR RESPONDENTS(S) Adv.: Mr. S.K. Ojha

Notes of The Registry	Order of The Tribunal
	<p>Heard Mr. K.P. Mishra, Ld. Counsel appearing for the applicant so also Mr. S.K. Ojha, Ld. Counsel appearing for the Official Respondents.</p> <p>2. Twenty applicants have joined together and have filed the present O.A. seeking for quashing of the impugned order dated 31.03.2011 (Annexure-A/4) and for a direction to the authorities to engage the applicants as substitutes in various Departments, like the applicants of O.A. No.520/2001.</p> <p>3. Ld. Counsel for the Official Respondents Mr. S.K. Ojha seriously challenged the very maintainability of the present O.A. and further contended that the present applicants were not parties to the earlier O.A. No.520/201 or O.A. No.511/1994.</p> <p>4. Ld. Counsel for the applicant submitted that he is approaching this Tribunal on the basis of order passed on 16.02.2016 in Contempt Petition No.783/2011 arising out of W.P. (C) No.8202/2005 disposed of on 19.11.2010.</p> <p>5. On going through the record it is seen that the present applicants were neither parties to O.A. No.511/1994 which was disposed of on 04.01.1999 nor were parties to W.P. (C) No.8814/2004 (Annexure-A/1 & A/2). Even the present applicants were not parties to W.P. (C) No.8202/2005. There is substantial force in the submission of Ld. Counsel for the Respondents that earlier the Contempt was dropped due to compliance of the order passed by this Tribunal and Hon'ble High Court. Even while passing the order on 16.02.2016 in Contempt Petition No.783/2011 Their Lordships further observed that the representation of the applicants has already been decided and there is no contempt is made out and only gave liberty to the applicants to seek redressal of their grievance in appropriate forum. Such liberty will not make a stale claim a live claim.</p> <p>6. Some diligent persons who had approach this Tribunal in 1994 in filing O.A. No.511/1994 got the relief which cannot be granted/extended to the persons who were in deep slumber and approaching this Tribunal in 2016 only.</p>

*SL/Chitravati
19/3/18*

7. Coming to the impugned order dated 31.03.2011 (Annexure-A/4) which is challenged in this O.A., it is seen that the said order was passed with reference to one applicant viz., Sri Ashok Ku. Sethi in connection with W.P. (C) No.8202/05 which was disposed of on 19.11.2010 where in it has been clearly averred that the present Petitioners in W.P. (C) No.8202/05 can not be considered for engagement as Substitute in Railways as the Order of Hon'ble High Court, Cuttack is not applicable in general and the Notification dated 13.08.1990 calling for Applications, has been cancelled vide notice dated 22.01.99.

8. There is specific bar in respect of Sri Ashok Ku. Sethi who is Applicant No.3 in approaching this Tribunal at this distance of time, since rejection order was passed way back 2011 and it has become a stale claim. As regards the other applicants of this O.A., it is not maintainable as there is no impugned order and without approaching the Department applicants cannot come directly to the Tribunal as such procedure is specifically barred under Section 20 of the Administrative Tribunal's Act, 1985. Since the present claim is not a live claim and rather it is a stale claim the Tribunal should desist from directing consideration of such claim, in view of pronouncement of **Hon'ble Supreme Court in the case of C. Jacob v. Director of Geology & Mining & Anr. A.I. R. 2009 SC 264 read with in the case of Chennai Metropolitan Water Supply and Sewerage Board and others v. T.T. Murali Babu AIR 2014 Supreme Court 1141.**

9. Merely because some diligent persons approached this Tribunal at appropriate time similar relief cannot be extended to fence-sitters who preferred to sit even their right for decades. That apart since cause of action for the present applicants had arisen two decades back such a matter cannot be admitted to be adjudicated at this distant of time. That apart since in the earlier O.As, the present applicants were not parties, their very filing of the present O.A. is treated as a stage managed affair and not admitted being hopelessly barred by limitation. Hence this O.A. is dismissed as not maintainable, being a stale claim. No costs.


(DR. MRUTYUNJAY SARANGI)
MEMBER (A)

kb


(SUSHANTA KUMAR PATTNAIK)
MEMBER (J)