

18

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

Original Application No.1037 of 2012  
Cuttack, this the 13<sup>th</sup> day of January, 2015

A.K. Barik & Others

.....

Applicant

-Versus-

Union of India & Others

.....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Yes*
2. Whether it be referred to PB for circulation? *Yes*

  
(R.C. MISRA)  
MEMBER(A)

  
(A.K. PATNAIK)  
MEMBER(J)

19

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

Original Application No.1037 of 2012  
Cuttack, this the 13<sup>th</sup> day of January, 2015

CORAM

**HON'BLE MR. A.K. PATNAIK, MEMBER (J)**  
**HON'BLE MR. R. C. MISRA, MEMBER (A)**

1. Ashok Kumar Barik,  
aged about 38 years,  
S/o. Damodar Barik,  
At-Somanathpur,  
P.O.-Dadhimachhagadia,  
P.S./Dist-Khurda.
2. S. Laxman Rao,  
aged about 47 years,  
S/o. S. Kesava Rao of Loco Colony,  
P.O./P.S- Jatni, Dist-Khurda.
3. Sayed Janul Abdin,  
aged about 43 years,  
S/o. Sayad Tajudin of Ramachandrapur,  
P.S- Jatni, Dist-Khurda.
4. T. Padmabati,  
aged about 40 years,  
D/o. T. Rajarao of Hatabazar,  
P.O./P.S- Jatni, Dist-Khurda.
5. A. Venkat Rao,  
aged about 47 years,  
S/o. A. Harinarayan Rao  
Of First Military Line,  
P.O./P.S- Berhampur, Dist-Ganjam.
6. D. Krishnakumar,  
aged about 38 years,  
S/o. Late D. Ananta Rao of A-117-A,  
Loco Colony, Khurda Road,  
P.S- Jatni, Dist-Khurda.
7. P. Kumar Deo,  
aged about 47 years,  
S/o. Late P.B.R. Murty of  
At/P.O./P.S- Jatni, Dist-Khurda.
8. Krupasindhu Mohapatra,  
aged about 40 years,  
S/o. Raghunath Mohapatra of Barapada,  
P.S.-Delanga, Dist-Puri.



9. Ashis Kumar Dash,  
aged about 40 years,  
S/o. Bistoo Dash of Station Bazar,  
Patra Sahi, P.O.-College Square,  
P.S.-Malgodown, Dist-Cuttack.

...Applicants

(Advocate: M/s. B. Mohanty, A. Patnaik, B.S. Rayaguru, S. Patnaik)

**VERSUS**

Union of India Represented through

1. Secretary to the Government of India,  
Railway Board,  
Ministry of Railways,  
Rail Bhavan,  
New Delhi-110 001.
2. The General Manager,  
East Coast Railway,  
Chandrasekharapur,  
Bhubaneswar, Dist. Khurda, Orissa.
3. The Divisional Railway Manager,  
Khurda Road Division,  
P.O.-Jatni, Dist. Khurda.
4. The Sr. Divisional Personnel Officer,  
Khurda Road Division,  
P.O.-Jatni, Dist. Khurda.

... Respondents

(Advocate: Mr. T. Rath)

**ORDER**

**R.C. MISRA, MEMBER (A)**

Nine applicants in the present O.A. have approached this Tribunal seeking relief for direction to be issued to Respondent Nos. 2 & 3 to publish the result of the screening and give appointment to the eligible candidates in the Railways.

2. The facts of the case are that on 13.08.1990, the South Eastern Railway, Khurda Road invited applications from the wards of the Railway employees who had retired on superannuation after 01.01.1987 or will be retiring from service by 31.12.1993, for enrollment of fresh faces Substitutes for utilization against day to day casual work. Applicants had also submitted



applications along with documents for enrollment as Substitutes. Accordingly, they were called upon to appear in the interview which they had attended. During the process of selection certain irregularities having been detected, final results were not published and the matter was subjected to a vigilance investigation. Finally, the General Manager cancelled the entire process of selection in the year 1999. Some of the aggrieved persons approached this Tribunal in O.A. Nos.369/95, 590/94 and 511/94, respectively. Those Original Applications were disposed of with the following directions. The relevant portion of O.A. No.511/94 is produced below:-

“In consideration of this, we direct Respondent Nos.1 & 2 to order the Vigilance Organisation to complete the inquiry and submit their report within a period of 90 days from the date of receipt of the copy of this order. Further action with regard to the interview/test will have to be taken on the basis of findings of the Vigilance Organisation in the inquiry into the alleged irregularities in the interview/test.”

3. Aggrieved by the aforesaid orders of this Tribunal, some of the applicants approached the Hon'ble High Court in O.J.C. No.6140/99 which was disposed of on 05.07.01, with liberty to the petitioners to approach the Tribunal challenging the orders of cancellation of interview dated 22.01.99.

4. Thereafter, some of the applicants approached before this Tribunal in O.A. No.520 of 2001 and this Tribunal vide order dated 16.04.2004 issued a direction that the wards of the Railway Employees for enrolment as substitutes may be considered along with outsider candidates. Further, this Tribunal directed that the cases of the applicants who had applied in response to the notification dated 13.08.1990 may be considered as and when they would take action for enrolment of substitutes under their organization. Thereafter, the Respondents challenged this order of the Tribunal by filing W.P.(C) No.8814/2004 before



the Hon'ble High Court of Orissa, and the Hon'ble High Court of Orissa upheld the order passed by this Tribunal vide judgment dated 17.03.2006. However, the Hon'ble High Court of Orissa modified the order of the Tribunal to the extent that on the availability of vacancies the petitioners (Railways) shall invite applications according to their requirement by making publication in some newspapers having wide circulation. The opposite parties 1 to 20 shall also be allowed to apply therein along with the outsiders, in case, they move applications pursuant to the same mentioning that they were applicants in respect of the earlier notification dated 13.08.1990. It was further directed by the Hon'ble High Court of Orissa that the case of those who are over aged shall be considered for relaxation. The Railway Authorities in compliance of the order of the Hon'ble High Court of Orissa dated 17.03.2006 have already appointed 16 of the applicants in respect of O.A. No.520/2001.

In the meantime some of the candidates approached this Tribunal by filing O.A. Nos.256 & 336 of 2005 in which this Tribunal vide its order in O.A. No.256/05 pleased to dispose of the O.A. with the following direction:-

“ In the aforesaid premises, this case is disposed of granting liberty to the applicants to individually represent their cases before the Respondents, provided the applicants to make their representations by the end of June,, 2005 and the Respondents should give due consideration to the grievances of the applicants keeping in mind the direction dated 16.04.04 of this Tribunal rendered in O.A. No.520/01.

The entire exercise should be completed by the Respondents by the end of November, 2005 under intimation to each of the applicants herein. In the aforesaid observation and directions, this O.A. is disposed of.”

In obedience to the orders of this Tribunal passed in 256/05 the applicants had filed representations before the Railway authority. After receiving the representations of the applicants Railway authority disposed of the



23

representations of the applicants saying that the writ application was pending against O.A. No.520/01. Therefore the representations of the applicant could not be considered in that point of time. The Respondents-Department after receiving the notice of Contempt implemented the judgment and issued appointment order to the applicants of O.A. No.520/01. The applicants in the present O.A. are similarly situated persons and they have faced similar interview with the applicants of O.A. No.520 of 2001 but unfortunately they are denied appointment for the post of substitute. In the meantime this Tribunal vide order dated 04.01.2012 was pleased to dispose of similar matter in O.A. No.611/2009 and directed the Railway Authorities to consider the grievance of the applicant in the light of the decision of the Hon'ble High Court of Orissa passed in W.P.(C) No.8814/2004. However, the applicants have approached the Tribunal praying for a relief that they should be considered under the orders passed by the Hon'ble High Court of Orissa in W.P.(C) No.8814/2004 by extending the same benefit as given by this Tribunal in their order dated 04.01.2012 passed in O.A. No.611/09.

5. In the counter Respondent-Railways have opposed the prayer of the applicants. According to Respondents, there was an order of this Tribunal in O.A. No.520/2001 as mentioned by the applicants. This order was challenged by the Railway Authorities before the Hon'ble High Court of Orissa in W.P.(C) No.8814/2004. The Hon'ble High Court in their judgment dated 17.03.2006 made certain modification of the order of this Tribunal dated 16.04.2004. It is also submitted by the Respondents that in O.A. No.611/09 this Tribunal gave a direction that the applicants may make applications to the Respondents enclosing thereto proof in support of submission of application pursuant to the notification dated 13.08.1990 and on receipt of the same the Respondents will do well in the

light of the decision of the Hon'ble High Court of Orissa within a period of 60 days from the date of receipt of application from the applicants. As against this order the Railway Administration has preferred a Writ Petition bearing No.W.P. (C) No.15015 of 2012 before the Hon'ble High Court of Orissa which was disposed of on 09.07.2013 by confirming the orders of this Tribunal. After the decision of the Hon'ble High Court of Orissa the Chief Personnel Officer, East Coast Railway, Bhubaneswar considered the case in pursuance of the various Court orders that the applicants and other similarly placed persons may apply in the next Notification for the erstwhile Group 'D' posts to be published by the Railway Recruitment Cell, Bhubaneswar. Their over-age aspect will be considered as one time exemption if they apply duly enclosing attested copy of call letter in support of attending the Screening/Physical Test conducted against the Notification dated 13.08.1990 as well as copy of this speaking order fulfilling other terms & conditions of Employment notification. The Envelope should be superscribed mentioning that they were the candidates against Notification dated 13.08.1990.

6. We have heard Mr. B.S. Rayaguru, Ld. Counsel appearing for the applicant and Mr.T. Rath, Ld. Standing Counsel appearing for the Respondents-Railways and perused the materials placed on record.

7. The subject matter of dispute herein is no longer res integra. In recent past, this Tribunal has disposed of a number of cases under similar facts and circumstances. In view of this following the ratio decided by this Tribunal in one of the O.As, i.e. O.A. No.611/09, this O.A. is disposed of with a liberty to the applicants to make applications before the Respondents enclosing thereto proof in-support of their submission of the applications pursuant to the

D. Barik

notification dated 13.08.1990 and on receipt of the same the Respondents will dispose of the matter in the light of the decision of the Hon'ble High Court of Orissa passed in W.P.(C) No.8814/2004. Ordered accordingly. No costs.

  
(R.C. MISRA)  
MEMBER(A)

  
(A.K. PATNAIK)  
MEMBER(J)

K.B.