

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 5956 of 2005

Railway Recruitment Board and Petitioners
Another

Mr. S.S. Kashyap, Central Government Counsel
-versus-

Rabinarayan Mishra Opposite Party

Mr. Saurav Tibrewal, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

ORDER
05.04.2022

Order No.

14. 1. The challenge in the present petition is to an order dated 6th December, 2004 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack (CAT) disposing of OA No.40 of 2000 filed by Opposite Party and directing the Railway Recruitment Board to consider the case of the Opposite Party for the post of Train Assistant Driver (TAD) notwithstanding the fact that he had failed to turn up for the viva-voce test.
2. Interestingly, the reason adduced by the Opposite Party for failing to appear for the viva-voce was that he did not receive the call letter and that on account of the super cyclone which was in the State of Odisha in the month of October 1999, he was also unable to produce the documents for verification.
3. The Tribunal called for the attendance sheets and was satisfied that out of the 910 candidates called upon to appear before the

Railway Recruitment Board (RRB), 830 candidates had actually appeared. Consequently, the CAT held that there was no merit in the plea of the Opposite Party that he was not aware of the dates of the viva-voce or that because of the cyclone he could not produce the documents.

4. One factor that appears to have weighed with the CAT was the submission of the Standing Counsel for the RRB that if the Applicant (Opposite Party) had appeared with the relevant documents “he could have been accepted and offered appointment as his name was within the list of successful candidates for appointment”. The second factor was that the Opposite Party was “still without a job”. In the considered view of the Court, the above factors were not relevant. Strangely, the CAT went out of the way to ask the RRB to waive the age restriction after noting that the Opposite Party was already 29 years of old.

5. In the considered view of the Court, the CAT exceeded its jurisdiction in passing the above directions which seem to be more out of sympathy for the Opposite Party, overlooking the fact that in matters of recruitment to posts in the State or State owned entities, there can be no dilution of the mandatory requirements of adhering to time and appearing at different stages within the time stipulated. There was also no occasion to relax the age requirement and that too for a single candidate. If as many as 830 candidates could fulfil all the conditions, and with the CAT being satisfied that there was no justification for the Opposite Party staying away from appearing the viva-voce or producing documents for verification,

there was no occasion for any relaxation of the conditions only for the Opposite Party.

6. The impugned directions cannot be sustained in law. The impugned order of the CAT is accordingly set aside. The writ petition is allowed in the above terms. No order as to costs.

7. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/P.A.

