



O.A. No. 350/882/2019
M.A. No. 350/856/2019

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 350/ 882 of 2019

Probal Chatterjee

son of Late A.C. Chatterjee, aged
about 53 years, working as Cabin
Master, of Bainchi Railway Station,
Eastern Railway, residing at Village,
Bantika Roy Para, P.O. Bainchi,
P.S. Pandua, Dist. Hooghly,
Pin_ 712134.

... Applicant

Versus

1. Union of India, service through
the General Manager, Eastern Railway,
17, N.S. Road, Fairlie Place,
Kolkata_ 700001.

2. The Senior Divisional Personnel
Officer, Eastern Railway, Howrah
Division, Howrah_ 711101.

.... Respondents

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/882/2019
M.A.350/856/2019

Date of order : 6.1.2020

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

PROBAL CHATTERJEE

VS.

UNION OF INDIA & OTHERS
(EASTERN RAILWAY)

For the applicant : Mr. T.K. Biswas, counsel

For the respondents : Mr. K. Sarkar, counsel



ORDER

Bidisha Banerjee, Judicial Member

The applicant in this O.A. has sought for the following reliefs inter alia:-

- a) An order directing the respondents to set aside the order dated 31.5.2019;
- b) An office order being No. EAT/3/G/Prom/Pt XI dated 15.3.2019 issued by the respondent No.2 to the extent the same excludes the name of the applicant for undergoing promotional training course in connection with the promotion to the post of Goods Guard is not tenable in the eye of law and as such the same should be quashed;
- c) Office order dated 1.3.2019 issued by the respondent No.2 to the extent of keeping the case of the applicant in sealed cover in connection with his promotion to the post of Goods Guard on the ground of pendency of Criminal case is not tenable in the eye of law and as such the same should be quashed;
- d) To extend the benefit of promotion in favour of the applicant allowing him to attend the promotional training course in connection with the said promotion because the applicant is similar situated person, so that he is entitled to same benefits of the said judgement(Annexure A-8);
- e) Grant all consequential benefit;

f) Costs and incidental to this application;

g) Any other order or orders as to this Hon'ble Tribunal may deem fit and proper."

2. The applicant has urged that he should be permitted to undergo promotional training course for the post of Goods Guard which the respondents in terms of their order dated 31.05.2019 have disallowed. The order dated 31.05.2019, assailed in the present O.A. is as under:-

Eastern Railway

OA no. 350/00452/Probal Chatterjee - vs- U.O.I & Ors/2019

Dated Howrah 31st May'19

Reasoned and Speaking Order

In compliance with the order of Hon'ble CAT/Calcutta dated 08.04.19 in OA no. 350/00452/2019, Sri Probal Chatterjee -vs- U.O.I & Ors, the undersigned i.e Sr DPO/E.Rly/Howrah & the respondent no. 2 has examined the representation dated 22.03.19 alongwith all other relevant rules into the matter & pass the following orders.

Hon'ble CAT/Calcutta under order dated 08.04.19 has directed the respondent no.2 i.e Sr DPO/HWH to decide on his representation dated 22.03.19 (**Annexure A-5** to the OA) and pass a reasoned and speaking order within a period of 8 weeks from the date of receipt of a copy of the order.

In the representation dated 22.03.19 as enclosed with the OA as **Annexure -5**, the applicant has sought for relief for grant of promotional benefit to the post of Goods Guard in Level 5.

The matter has been examined & it is seen that Sri Probal Chatterjee, Cabinmaster/Boichi was called in the selection for the post of Goods Guard under this office letter no. EAT/3/Guard/Prom/Pt.X dated 18.12.18. The selection procedure was completed on 15.03.19. But the result of the selection in favour of the applicant could not be published as per Rly Bd's order circulated under CPO/E.Rly/Kolkata's SI No. 25/1993 as the applicant was under prosecution for a criminal charge.

It was intimated by Officer- In- Charge, Memari PS, Burdwan on 26.02.13 that SBI/Memari Branch lodged a complaint against Sri Probal Chatterjee that Sri Chatterjee made an attempt to fraud Rs 225300/- by producing forged and false Cheque Bearing no. 279059 issued by USA Martin Ltd. to the name of said Prabal Chatterjee to deposit the said amount in A/C no. 10513297110. UBI authority sent the Cheque to SBI, Memari Branch to encash the cheque and SBI authority detected that it was forged and false Cheque. On 12.03.13 said Probal Chatterjee was arrested. On 13.03.13 he was forwarded to Court. The applicant was placed under deemed suspension vide this Office Order no. T/CC/Staff/Susp-Revo/02/13 dated 22.03.13 which was subsequently revoked on 07.06.13 vide Office Order no. T/CC/Staff/Susp-Revo/02/13 dated 07.06.13.

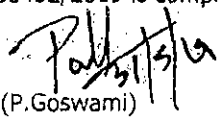
From the papers available in this office it is seen that the criminal case was continuing for considerable period of time but no official correspondence regarding acquittance of the applicant from the criminal charges has been received from any authority.

In view of the above the promotional benefit in favour of the candidate can not be extended till such time clear order from the Hon'ble judiciary is received for acquittance of the applicant from the Criminal Charges.

Thus the order of Hon'ble CAT/Calcutta dated 08.04.19 in OA no. 350/00452/2019 is complied with.

Address

Sri Probal Chatterjee
S/o Lt A.C. Chatterjee
Vill - Bantika Roy Para,
PO - Bainchi,
PS - Pandua,
Dist - Hooghly
Pin - 712134


(P. Goswami)
Sr Divl Personnel Officer
Howrah



Citing the same Id. counsel for the applicant would vociferously contend that pendency of the criminal proceedings which had no bearing with the discharge of his official duties should not stand in the way of his training which unless imparted to him his promotion could not be accorded upon opening sealed cover, if he was found suitable.

3. The respondents' counsel vehemently opposed the prayer on the ground that criminal proceedings were pending and vigilance clearance was held up and would submit that pending proceedings the applicant could not be promoted.

4. We heard the Id. counsels and considered the rival contentions.

5. We discern that the applicant has made an innocuous prayer to send him for training as he is supposed to retire in the month of January, 2020. Admittedly his promotion case has been kept in the sealed cover which shall be opened upon conclusion of the criminal proceedings. If the authorities upon opening the seal cover finds him eligible for promotion, the same can be notionally granted even after his retirement but in the event he is not sent for training, he may not get the benefit of promotion.

6. Therefore, we dispose of this O.A. with a direction upon the authorities to immediately send him for training which shall not be a ground for the applicant to demand promotion as a matter of right if upon conclusion of criminal proceedings and reopening of sealed cover he is not found eligible for promotion. The O.A. is accordingly disposed



of . The M.A.350/856/2019 whereby the applicant has prayed for interim relief, therefore, stands allowed. No costs.

(Dr. Nandita Chatterjee)
Administrative Member
sb

(Bidisha Banerjee)
Judicial Member

