

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

LIBRARY

No. O.A. 630 of 2019

Date of order: 13.1.2020

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Mohit Bairagi,
Son of Mantu Bairagi,
Aged about 26 years,
By Occupation - Unemployed,
Residing at Hementa Mukherjee Road,
Kalyan Gram - 6,
P.O. - Achhra,
P.S. Salanpur,
District : Paschim Burdwan,
Pin - 713335.

... Applicant

- V E R S U S -

1. Union of India through General Manager,
Chittaranjan Locomotive Works,
Chittaranjan,
Dist. Burdwan,
Pin - 713331.
2. The Principal Chief Personnel Officer,
Chittaranjan Locomotive Works,
Chittaranjan,
Dist. Burdwan,
Pin - 713331.
3. The Senior Personnel Officer (Administration),
Chittaranjan Locomotive Works,
Chittaranjan,
Dist. Burdwan,
Pin - 713331.

... Respondents

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Ms. D. Mitra, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal in third stage litigation under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

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"(a) To set aside and quash impugned Notice No. GMA/SPO(A)/Rectt./Cultural Quota/2017-2018 dated 22.4.2019 issued by Principal Chief Personnel Officer, CLW, Chittaranjan.

(b) To set aside and quash impugned Letter No. GMA/E-VII/Court Case/CQ/18 dated 17.7.2018 issued by Senior Personnel Officer (Admn.) for Principal Chief Personnel Office.

(c) To direct the respondents to publish the result of Practical Demonstration together with the final panel and complete the selection procedure for Recruitment against Cultural Quota as advertised in terms of Notification dated 19.8.2017 forthwith.

(d) To direct the respondents to grant appointment to the applicant if he is successful in the Practical Demonstration forthwith.

(e) To direct the respondent to produce the entire records relating to selection procedure against notification dated 19.8.2017 before the Hon'ble Tribunal.

(f) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

2. Heard rival contentions of both Ld. Counsel, examined documents on record. The matter is taken up for disposal at the admission stage.

3. Ld. Counsel for the applicant would submit that the applicant had applied in response to notification dated 19.8.2017 for recruitment against Cultural Quota for the post of Instrumental : Percussion. He qualified in the written examination and was thereafter called to appear in the Practical Demonstration.

Upon non publication of the final result of selection, the applicant approached this Tribunal in O.A. No. 441 of 2018, pursuant to which the respondent authorities issued a letter dated 17.7.2018 (Annexure A-7 to the O.A.) whereby the authorities disclosed that the final result of the selection will be published upon approval of the competent authority, and, that, the applicant was advised to regularly follow the CLW website wherein the results would be uploaded. Being further aggrieved, as no result was published therein, the applicant filed O.A. No. 1602 of 2018 in second stage litigation which was disposed of by the Tribunal on 16.1.2019 on consent of Ld. Counsel that the authorities concerned may publish the final result of recruitment against Cultural Quota of 2017-2018 in terms of letter dated 17.7.2018 within two months from the date

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of receipt of the copy of the Tribunal's order. That, thereafter, the respondent authorities issued a notice dated 22.4.2019 (Annexure A-10 to the O.A.) by which they informed that the recruitment of candidates against "Cultural Quota" for the year 2017-2018 has been called off due to administrative reasons.

4. Ld. Counsel for the applicant would vociferously agitate that, despite the mandatory directions of the Tribunal in O.A. No. 1602 of 2018 and their assurances dated 17.7.2018, the respondent authorities have not only not published the results but have resorted to completely arbitrary action in cancellation of the said recruitment.

5. Ld. Counsel for the respondents would argue that the respondent authorities, while publishing their notification dated 19.8.2017 (Annexure A-1 to the O.A.) had, particularly, noted as follows:-

"The CLW administration reserves the right to cancel this recruitment at any stage without any prior notification."

Ld. Counsel would also contend that the cancellation was on account of certain complaints on irregularities in the selection process which had led to further investigations, upon which the competent authority had decided to call off the recruitment process for the year 2017-18.

6. As averred by Ld. Counsel for the applicant, we would proceed to examine the directions in the earlier O.A.s. In O.A. No. 441 of 2018, the Tribunal had disposed of the matter as follows:-

"5. By accepting the prayer of the Ld. Counsel for applicant and without going into the merits of this case, I hereby dispose of the O.A. by directing the respondent authority to consider and dispose of the representation of the applicant within a period of 3 months from the date of receipt of this order by passing a reasoned and speaking order. The decision so arrived shall be communicated to the applicant forthwith.

6. Further, it is made clear that if there is no hindrance, the final result be published."

While disposing of subsequent O.A. No. 1602 of 2018, the Tribunal had stated as under:-

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"2. Both Ld. Counsel agree that a direction be issued upon the authority concerned to publish the final result of recruitment against Cultural quota: 2017-2018 in terms of letter dated 17.7.2018 within two months from the date of receipt of a copy of this order.

3. Accordingly, the O.A. stands disposed of. It is made clear that we have not entered into the merits of the matter and all points are left open for consideration by the authorities concerned."

Hence, it is clear from both directions of the Tribunal that, while in the first stage litigation, the representation was directed to be disposed of, with publication of the final result if there was no hindrance to such publication, in second stage litigation, the Tribunal disposed of the O.A. with the consent of both Ld. Counsel that a direction be issued upon the authority to publish the result of recruitment of Cultural Quota 2017-2018 within two months from the date of receipt of a copy of such orders.

We note carefully that no mandatory orders were issued by the Tribunal in this regard and the respondent authorities were at liberty to publish the result as appropriate.

7. Ld. Counsel for respondents stated during hearing that the respondent authorities had decided to call off the recruitment process on account of such complaints on irregularities in such selection process, which called for further detailed scrutiny and investigation.

The respondent authorities were quite within their rights to call off such process in terms of the enabling clause in their notification dated 19.8.2017. The applicant had not chosen to challenge such incorporation, namely, that "The CLW administration reserves the right to cancel this recruitment at any stage without any prior notification."

In this, we would be guided by the judgement of the Hon'ble Apex Court in **Gohil Vishvaraj Hanubhai and ors. v. State of Gujarat and ors., (2017) 3 SCC 621**, wherein the Hon'ble Court had held:-

"21..... The authority of the State to take appropriate measures to maintain the purity of any examination process is unquestionable. It is too well settled a principle of law in light of the various earlier decisions of this Court that where there are allegations of the occurrence of large scale malpractice in the course of the conduct of any examination process, the State or its instrumentalities are entitled to cancel the examination. This Court has on

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numerous occasions approved the action of the State of its instrumentalities to cancel examinations whenever such action is believed to be necessary on the basis of some reasonable material to indicate that the examination process is vitiated. They are also not obliged to seek proof of each and every fact which vitiated the examination process."

8. Accordingly, as the respondent had reserved to themselves the right to cancel the selection process without prior notice, and, as reportedly, there are administrative reasons for calling off the said selection process, we would not seek proof of every reason based on which the respondent authorities were compelled to call off the selection process.

We would hope and trust, however, that when the next recruitment process as notified, the respondent authorities would take care to conduct the selection process in a fair and transparent manner which would not require them to call off the process frustrating the hopes of aspiring participants. Needless to say, in case a further notification is issued, the applicant would be at liberty to participate in the selection process and be selected, if he is otherwise eligible and qualifies in accordance with Rules.

10. The O.A. is disposed of accordingly. There will be no orders on costs.



(Dr. Nandita Chatterjee)
Administrative Member



(Bidisha Banerjee)
Judicial Member

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