CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A/350/597/2020 Date of Order: 10.09.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

Sudeb Barai,
Son of Late Upendranath Barai,
Aged about 32 years,
By Occupation – Unemployed,
Roll No. 122095164,
Residing at Taraknagar,
Sukantapalli, Bagula,
Taraknagar,
District – Nadia,
West Bengal – 741502.

... Applicant

Vs.

1. Union of India
Through the General Manager,
Eastern Railway,
10, N.S. Road,
Fairlie Place,
Kolkata – 700 001.

2. The Chairman,
Railway Recruitment Cell,
Eastern Railway,
56, C.R. Avenue,
RITES Building,
1st Floor,
Kolkata – 700 012.

3. Deputy Chief Personnel Officer (Rectt.),
Railway Recruitment Cell,
Eastern Railway,
56, C.R. Avenue,
RITES Building,
1st Floor,
Kolkata – 700 012.

4. The Senior Personnel Officer (Rectt.),
Railway Recruitment Cell,
Eastern Railway,
56, C.R. Avenue,
RITES Building,
1st Floor,
Kolkata – 700 012.

.... Respondents

For The Applicant(s): Mr. B. Chatterjee, counsel

For The Respondent(s): Mr. N. D. Bandyopadhyay, counsel

ORDER (ORAL)

Per Dr. Nandita Chatterjee, Administrative Member:

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

> "(a) An order directing the respondent authorities to consider the candidature of the applicant in the light of the judgment and Order dated 24th April, 2020 at Annexure A-3 to the Original Application and further directing them to keep one post vacant till consideration of the candidature of the applicant in the manner prayed for above.
>
> (b) An order directing the respondent authorities to grant all consequential benefits to the applicants.
>
> (c) An order directing the respondents to produce/cause production of all relevant records.
>
> (d) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

2. Heard Ld. Counsel for both sides.

3. Ld. Counsel for the applicant would submit that the law with regard to normalization [in awarding marks to candidates appearing at various venues/sessions with different sets of question papers], has been laid down by the Hon'ble High Court at Calcutta in WPCT No. 49 of 2017 and another 11 batch cases, particularly, with respect to the underlying condition that such normalization can be resorted to when there was a established difference in the level of difficulty in question papers in different shifts/different sessions. The applicant would, therefore, pray for liberty to prefer a comprehensive representation citing such judicial pronouncements and would further request that the respondents be directed to dispose of the same in a time bound manner.

4. Ld. Counsel for the respondents would object to maintainability of the O.A. on the ground of delay, being barred by law of limitation.

5. We infer, however, that, while adjudicating O.A. No. 163 of 2020 read with M.A. Nos. 103/104 of 2020, this Tribunal had held as follows:-

> "5. In our considered opinion, as the said notification of 2012 and the selection procedure adopting "normalization of marks" was under challenge before the Hon'ble High Court and a decision has been rendered recently on the same, the applicant would deserve a consideration in terms of the decision, which shall not be barred by limitation."

Accordingly, delay is condoned in the light of orders of the Tribunal in O.A. No. 163 of 2020 read with M.A. Nos. 103/104 of 2020.

6. As no representation has been preferred seeking benefits of the decision, without entering into the merits of the matter, we dispose of the O.A granting liberty to the applicant to prefer a comprehensive representation to the competent authority, enclosing judicial pronouncements therewith, within 4 weeks from the date of receipt of a copy of this order.

7. In the event such representation is preferred, the same shall be considered by the appropriate authority and disposed of in the light of the decision of the Hon'ble High Court, supra, within 2 months, granting appropriate relief as the applicant would be entitled to in accordance with law. The authorities should convey their decision to the applicant in the form of a reasoned and speaking order.

8. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP