

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

LIBRARY

No. O.A/350/732/2020

Date of Order: 15.10.2020

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

Harikesh Kumar Meena,
Son of Pyare Lal Meena,
Residing at Village - Andhakui Jhareda,
P.O. - Jhareda,
Tehsil Hinduan Coly,
District - Karauli,
Rajasthan,
Pin - 322230.

... Applicant

Vs.

1. Union of India
Services through the General Manager,
Eastern Railway,
17, N.S. Road,
Kolkata - 700 001,
West Bengal.
2. The Chairman,
Railway Recruitment Cell,
Eastern Railway,
56, C.R. Avenue,
RITES Building,
1st Floor,
Kolkata - 700 012.
3. Assistant Personnel Officer (Recruitment),
Railway Recruitment Cell,
Eastern Railway,
56, C.R. Avenue,
RITES Building,
1st Floor,
Kolkata - 700 012.

... Respondents

For The Applicant(s) : Mr. S. Roy, counsel

For The Respondent(s) : Mr. P. Bajpayee, Counsel

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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) To pass an appropriate order directing the concerned respondents to recruit the applicant as per the judgment passed by the Hon'ble Justice Dipankar Dutta and Hon'ble Justice Protik Prakash Banerjee in WPCT No. 49 of 2017 (in re: Bipul Kumar Biswas and others -v- Union of India & ors.) dated 24.4.2020 for the posts as advertised in connection with employment notice being no employment notice no. EN-0112/2012 dated 1.10.2012 as the applicant standing with the same footing with the litigants in the said matter forthwith.

(b) To pass an appropriate order directing the concerned respondents to transmit and authenticate the records and documents in regard to the instant case before this Hon'ble Tribunal so that conscionable justice may be done upon hearing the parties.

(c) Such further and other order or orders be passed and/or direction or directions be given as this Hon'ble Tribunal may deem fit and proper."

2. Heard Ld. Counsel for both sides. Examined documents on record.

This matter is taken up for disposal at the admission stage.

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 (Bipul Kumar Biswas and others. V. Union of India and others)** 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 that the respondents be directed to dispose of the representation dated 17.8.2020 (Annexure A-4 to the O.A.) in which he has prayed for his appointment in the light of the judgment in **WPCT No. 49 of 2017** in a time bound manner.

hcl

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

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.

In addition, Ld. Counsel for respondents would argue that the orders of Hon'ble High Court in **WPCT No. 49 of 2017** is inapplicable to the applicants as such orders were "in personem" being restricted to the writ petitioners only and also that a number of applicants had appeared in the subsequent recruitment process of 2013 which automatically debarred them from any consideration with reference to the orders of the Hon'ble High Court (supra).

Ld. Counsel would also submit that, being aggrieved with the order dated 24.4.2020 of Hon'ble High Court/Calcutta, Railway Administration has filed a SLP before Hon'ble Apex Court of India. **Diary No. 20060/2020, SLP Case No. SLP (C) No. 011748/2020.**

5. Given the pendency of the applicant's representation and **Diary No. 20060/2020, SLP Case No. SLP (C) No. 011748/2020**, we would, however, refrain from entering into the merits of the matter, and direct the competent authority to dispose of the representation of the applicant at Annexure A-4 to the O.A. with an appropriate order in accordance with law in the light of the decision of the Hon'ble High Court, supra, subject to

held

the outcome of the SLP, **Diary No. 20060/2020, SLP Case No. SLP (C) No. 011748/2020** filed in the Hon'ble Apex Court. The authorities should convey their decision to the applicant in the form of a reasoned and speaking order.

In the event the respondents fail to obtain a stay from the Hon'ble Apex Court, the applicant may be granted appropriate relief as he would be entitled to, in accordance with law.

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



(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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