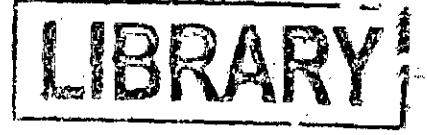


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCHMA 350/1002/2019
(Arising out of O.A.350/123/2017)

Date of Order: 16.03.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative MemberKaji Md. Montakin, Son of Kaji Golam Mustafa, By Caste-Muslim,
By occupation- Unemployed Youth, residing at Vill. & Post: AKNI,
Dist: Hooghly, Pin-712701.

.....Applicant

Vrs.

1. Union of India, through the General Manager, Eastern Railway, 17, N.S.Road, Kolkata-700001.
2. The Chief Personnel Officer, Eastern Railway, Fairlie Place, Kolkata-700001.
3. The Chief Administrative Officer, Eastern Railway, 4th Floor, 14, Strand Road, Kolkata-700001.

.....Respondents

For the Applicant(s): Mr. N.Roy, Counsel

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

ORDER (ORAL)**BIDISHA BANERJEE, MEMBER (J):**

This M.A. has been preferred by the applicant seeking execution of the order of this Tribunal dated 16.06.2017 in O.A. No. 123/2017.

2. Brief facts of the case, leading to filing of the present M.A., are that the land belonging to applicant's father was acquired by the Railways for execution, maintenance and operation of Dankuni to Furfura Sharif New Board Gauge Line

project in the year 2011. Since the appointment under land loser category was not extended to the applicant in terms of the notification dated 16.07.2010, he moved this Tribunal in O.A. No. 123/2017, which was disposed of on 16.06.2017 with the following observations:



2. *Mr. Das submits that this O.A. is not maintainable because of the provisions enumerated in the CAT Act and Rules. Mr. Bairagi, Ld. Counsel appearing on behalf of the applicant submits that he has sent a notice to the respondent authorities but till date no action has been taken by them.*
3. *We are of the considered view that a notice issued by any Advocate cannot be taken into cognizance by this Tribunal.*
4. *This O.A. stands disposed of granting liberty to the applicant to file a representation to the authorities, if so advised."*

Subsequently, applicant filed Contempt Petition No. 96/2018 for violation of the aforesaid order. The C.P. was dropped on 30.08.2019, as under:

"Ld. Counsel for the respondents submits speaking order has been issued in this matter.

Accordingly, contempt proceedings are dropped. Notices issued, if any, are discharged.

It goes without saying that the applicant/petitioner is at liberty to file a fresh application if further aggrieved."

Thereafter, the applicant has filed the present M.A. bearing No. 1002/2019.

3. When the matter was taken up on 13.02.2020, Ld. Counsel for the applicant had submitted that this matter can be disposed of in the light of the decision of the Hon'ble High Court in WPCT No. 74/2016.

4. We are well aware that in a batch of similar matters, i.e. O.A. Nos. 350/1313/2019 and others, this Tribunal after hearing the parties and upon perusal of the records disposed of all the O.As. vide a common order dated 16.03.2020 with the following direction:

“9. In WPCT 74 of 2016, the Hon’ble High Court at Calcutta while considering an identical matter of a land loser who was denied employment by Railways on the ground of age bar, has directed as under :

“21. It is evident from the materials-on-record that even land losers, who were 47 years old, have been offered appointment. The respondent no. 1 was 46 years old on the date he approached the tribunal for the first time. When his claim was rejected by the first order dated July 15, 2014, age-bar was not cited as a ground therefor. What we find is that there were absence of certain documents/papers for which the claim of the respondent no.1 could not be put up before the screening committee for screening. If indeed that was the reason for regretting his prayer, the petitioners ought to have asked the respondent no. 1 to supply the documents, which were not there in the file, instead of closing his right to claim appointment. We, therefore, propose to pass the following further directions to close the breach:

(i) within a period of seven days from date of receipt of a copy of this judgment and order, the Chief Personnel Officer shall intimate the respondent no.1, which of the documents are required from his end for ensuring placement of his claim before the screening committee;

(ii) within a month of receipt of such intimation, the respondent no.1 shall produce the necessary documents/papers before the Chief Personnel Officer and upon receipt of such documents/papers, the claim of the respondent no.1 shall be placed before the screening committee for an appropriate decision;

(iii) bearing in mind the fact that other land losers have been offered appointment even upon attaining 47 years of age, we hope and trust that the screening committee shall not cite age-bar as a ground for not considering the claim of the respondent no.1 and if a power of relaxation is indeed available to consider invocation of such power if the merits of the case so warrants; and

(iv) the entire exercise shall be completed as early as possible but not beyond June 30, 2019.”

10. In view of the direction of the Hon’ble High Court supra, and our revelations as indicated above, we feel it appropriate in the interest of justice, to direct the respondents to undertake an identical exercise as directed by the Hon’ble High Court in WPCT 74 of 2016 and issue appropriate order in regard to the present applicants within 4 months.”



5. Since the M.A. has been filed for execution of the order dated 16.06.2017 in O.A. 123/2017, which was disposed of only granting liberty to the applicant to represent before the authorities, we do not find any ground to give any sorts of direction to the respondent authorities for execution of the order.



However, in view of the orders passed in O.A. Nos. 350/1313/2019 and others and as prayed by the Ld. Counsel for the applicant for a direction to consider his case in the light of the decision of the the Hon'ble High Court in WPCT No. 74/2016, we dispose of the present M.A. directing to applicant to represent before the appropriate authority to that effect within four weeks and if such representation is preferred the said authority will consider the same in the light of the orders passed in O.A. Nos. 350/1313/2019 and others (supra) within a period of four weeks therefrom.

6. M.A. is accordingly disposed of. No costs.

(DR NANDITA CHATTERJEE)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)

RK