



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

(Through Vedio Conferencing)

OA. 350/743/2021

Date of Order: 27.04.2021

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member

Shri Uday Prasad Rajak, son of late Sona Prasad Rajak, aged about 50 years, residing at Railway Quarter No. DS/1/15C, Balidih, Bokaro Steel City, Pin- 827010 and working to the post of Technician Grade-I under the control and authority of the Senior Engineer, Airback Section, Bokaro Steel City, South Eastern Railway under Senior Divisional Mechanical Engineer, South Eastern Railway, Adra Division.

.....Applicant.

-versus-

1. Union of India, service through the General Manager, South Eastern Railway, 11, Garden Reach Road, Kolkata- 700043.
2. The Principal Chief Personnel Officer, South Eastern Railway, 11, Garden Reach Road, Kolkata- 700043.
3. The Senior Divisional Mechanical Engineer, South Eastern Railway, Adra Division, District- Purulia, Pin- 723121.
4. The Senior Personnel Officer, South Eastern Railway, Adra Division, District- Purulia, Pin- 723121.
5. The Divisional Railway Manager, Adra Division, South Eastern Railway, District- Purulia, Pin- 423121.



6. The Railway Recruitment Board, Bhopal, service through the Chairman, East Railway Colony, Bhopal, Pin- 482010, Madhya Pradesh.

.....Respondents.

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : None

ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:

This OA has been filed to seek the following reliefs:

"8(a) To declare that the office memo dated 17.02.2020 issued by the Govt. of India, Dept. of Pension and PW, Lok Nayak Bhawan, Khan Market, New Delhi- 110003 under paragraph-4 whereby the DOPT has said that in all cases where the results for recruitment were declared before 01.01.2004 against vacancies occurring on or before 31.12.2003 the candidates declared successful for recruitment shall be eligible for coverage under the CCS (Pension) Rules, 1972. Accordingly, such Govt. servants who were declared successful for recruitment in the result declared on or before 31.12.2003 against vacancies occurring before 01.01.2004 and are covered under the National Pension System on joining service on or after 01.01.2004 may be given a one-time option to be covered under the CCS (Pension) Rules, 1972. The option may be exercised by the concerned Govt. servants latest by 31.06.2020 has to be modified in terms of paragraph 18 of the order dated 27th March, 2017 passed by the Hon'ble High Court at Delhi, New Delhi in the case of Inspector Rajendra Singh & Ors. vs. Union of India & Ors. in WP (C) NO. 2810/2016 which has been affirmed by the Hon'ble Supreme Court vide order dated 08.01.2017 in SLP being SLP (C) Diary No.(s) 39335/2017 decided by the Division Bench of the Hon'ble Supreme Court whereby it has been affirmed of the Hon'ble Delhi High Court's judgment dated 27.03.2017 that has to be incorporated in the said office memo dated 17.02.2020 and further declare that para 4 of the DOPT office memo dated 17.02.2020 will not be applicable in the case of the present applicant's case in terms of the decision of the Hon'ble High Court's order 27.03.2017 under para 18 referred above and to give benefit of coverage under old pension scheme under CCS (Pension) Rules, 1972 in favour of the applicant who was selected for appointment in terms of the vacancies sanctioned by the Railway Recruitment Board, Bhopal vide Employment Notice No. 1/2003 dated 28.07.2003 which is appearing annexure A-1 of this OA.

(b) To pass an appropriate order directing upon the DOPT to modify the office memo dated 17.02.2020 in terms of para 18 of the order dated 27th March, 2017 passed by the Hon'ble High Court at Delhi, New Delhi in the case of Inspector Rajendra Singh & Ors. vs. UOI & Ors. in WP (C) No. 2810/2016 which has been affirmed by the Hon'ble Supreme Court vide order dated 08.01.2017 in SLP being SLP (C) Diary No.(s) 39335/2017 decided by the DB of the Hon'ble Supreme Court.



(c) To declare that the present applicant who was appointed in terms of the vacancies sanctioned by the Railway Recruitment Board, Bhopal vide E. Notice No. 1/2003 dated 28.07.2003 is entitled for the coverage under Old Pension Scheme under CCS (Pension) Rules, 1972 and he is entitled for such benefit.

2. Heard Id. Counsel for applicant at length.
3. Since none appears on behalf of the respondents despite service, Rule 16(1) of CAT (Procedure) Rules, 1987 is invoked.
4. The applicant, as it appears, is primarily seeking benefit of a decision not cited in his representation. Id. Counsel for applicant therefore seeks liberty to prefer a fresh representation before the respondent authorities to seek benefits of the decision of High Court at Delhi, in WP (C) No. 8208 of 2020 rendered on 15th January, 2021 in an identical issue.
5. Therefore, the OA is disposed of with liberty to the applicant to prefer a fresh representation to the authorities citing the decision and direction of the Hon'ble High Court at Delhi and upon receipt of the same the authorities to consider the representation of the applicant in the light of the cited decision and pass a reasoned and speaking order, within a period of 3 months from the date of receipt of a copy of the representation. In the event the respondents are of the view that the applicant deserves the consideration, let an appropriate order be issued within the said period.
6. It is made clear that I have not entered into the merit of this matter and, therefore, all points are kept open for consideration.
7. The OA accordingly stands disposed of. No costs.

pd

(Bidisha Banerjee)
Member (J)

