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O.A.No. 215 of 2007

Rajendra Kumar Majhi

Applicant

Vrs.

Union of India and others

Respondents

ORDER DATED 14/5 SEPTEMBER 2007

This matter was placed before the Bench for considering the question of admission on 23.7.2007 when the learned counsels M/s Ramakanta Pattnaik, Subash Chandra Puspalka, S.Jena and A.N.Samantray for the applicant did not appear on account of Advocates' strike on Court work before this Bench on the basis of purported resolution of CAT Bar Association. In this connection, I would like to refer to the decision of the Hon'ble Supreme Court in the case of Ramon Services Pvt.Ltd. v. Subhash Kapoor and others, JT 2000 (Suppl.2) SC 546, wherein Their Lordships, in paragraphs 24, 27 and 28 of the judgment, have held that no advocate can take it for granted that he will appear in the court according to his whims and fancies or convenience. It would be against professional ethics for a lawyer to abstain from the court when the cause of his client is called for hearing or further proceedings. In appropriate cases the court itself can pass effective orders for dispensation of justice with the object of inspiring confidence of the common man in the effectiveness of judicial system. Inaction will surely contribute to the erosion of ethics and values in the legal profession and the defaulting Courts may also be contributory to the contempt of the Hon'ble Apex Court. Keeping in view



the case law laid down by the Hon'ble Supreme Court, the materials available on record were perused and notices were directed to be issued to the Respondents requiring them to file counter within six weeks and the O.A. was posted to 5.9.2007 for considering the question of admission of the O.A.

2. However, the O.A. was listed before the Bench on 6.9.2007 when the learned counsels for the applicant ~~were also~~ *continued their strike and again therefore did.* absent. Relying on the decision of the Hon'ble Apex Court in Ramon Services Pvt.Ltd.'s case (supra) the record was perused and order was reserved.

3. Applicant Rajendra Kumar Majhi, an unemployed youth, has filed this O.A. for a direction to the Respondent-Railways to issue appointment letter to the applicant without waiting for the finalization of the Vigilance case in which the applicant is no way connected and for quashing the order dated 28.3.2007 passed by the D.R.M., East Coast Railway, Khurda Road.

4. This is the second round of litigation initiated by the applicant, his earlier OA No. 740 of 2006 having been disposed of by the learned Single Member Bench by order dated 10.11.2006 with direction to the Respondent No.2 to dispose of the applicant's matter within two months.



5. Annexure 9 is the communication dated 28.3.2007 issued by the DRM(P), East Coast Railway, Khurda Road, informing the applicant as follows:

“That one Sri Chakradhar Sahoo has filed OA No. 496/06 before the Hon’ble CAT/CTC. The Hon’ble CAT/CTC has directed the Respondent No.1, i.e., GM/BBS to cause an enquiry into the allegation made by the applicant in his representation and the case is under investigation by the Vigilance Organisation. Respondent No.2, i.e., DRM/KUR has decided that a final decision in your case will be taken after Vigilance enquiry as per the Hon’ble Court’s order, is finalized.”

6. I have called for the record in OA No. 496 of 2006 and examined it. It is found therefrom that one Chakradhar Sahoo, who had not even faced the selection test in question conducted by the Railways, approached this Tribunal in O.A. 496/06 alleging illegal and arbitrary action of the Respondent-Railways in appointing outsiders. When the said O.A. was taken up for hearing on admission, vide order dated 14.6.2006 the Single Member Bench disposed it of at that stage with the following direction :

“After hearing the learned counsel for both the sides and perusing the materials placed on the record this O.A. is remitted to the Respondent No.1 to cause an inquiry into the allegations made by the applicant under Annexure-A/4. He may take assistance of the Vigilance Department. The applicant is also at liberty to place any new fact which may come across before the Respondent No.1 for inquiry and taking corrective steps, if any”.

7. A Division Bench of this Tribunal, while deciding O.A.No. 440 of 2006 (Sarat Kumar Sahoo and nine others Vrs. Union of India and others) decided on 24.8.2007, a matter concerning the selection and

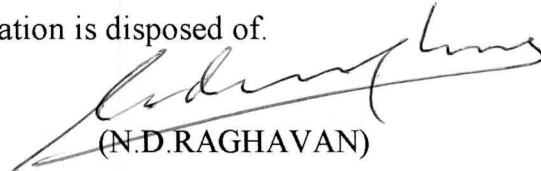


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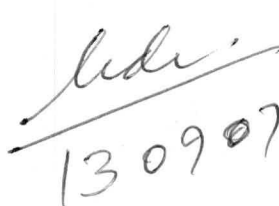
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appointment of Gangman and Group D in the Civil Engineering and Operating Department of the East Coast Railways, have taken into account the order passed by the Tribunal in OA No. 496 of 2006. In the circumstances, there is no need to delve into the matter any further as, in my considered view, the directions issued in the order dated 24.8.2007 passed in OA No.440 of 200⁷ will suffice to meet the grievance of the applicant in the present case It is ordered accordingly.

8. In the result, the Original Application is disposed of.


(N.D.RAGHAVAN)

VICE-CHAIRMAN

fix for pronouncement
on 14.09.07. 
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