

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. CPC. 8 of 2003
M.A. 283 of 2009
(O.A. 173 of 1997)

Present : Hon'ble Mr. K.V. Sachidanandan, Vice-Chairman
Hon'ble Mr. Champak Chatterji, Member (A)

SUKAMAL DEY & ORS.

VS.

A.K. DAS, CHAIRMAN, RRB, M. RLY & ORS.

For the Applicants : Mr. P.C. Das, Counsel

For the Alleged Contemnors : Mr. K. Chakraborty, Counsel

Order dated : 19.8.10

ORDER

Per Mr. K.V. Sachidanandan, VC:

This Contempt Petition has been filed by the applicants of O.A. No. 173 of 1997 alleging violation of the order of the Tribunal dated 15.2.2002. MA has been filed by the respondents to drop the contempt proceedings in view of the latest decision of the Apex Court in the connected matters.

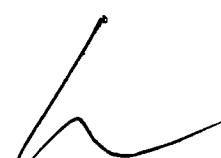
2. In O.A. the four applicants had claimed retrospective seniority contending that their appointment as Accounts Clerk Gr. I was delayed due to fault of the Railway Recruitment Board. It may be stated that in pursuance of Employment Notice dated 19.8.85 the applicants had applied for the post of Accounts Clerk Gr. I but they were not successful. Being aggrieved they filed O.A. No. 104 of 1994 which was disposed of by the Tribunal on 16.9.94 directing the RRB to issue necessary orders for appointment in favour of the applicants.

Accordingly, the respondents implemented the order and the applicants were appointed in 1994. In this OA, the applicants had relied on some other decisions of the Tribunal rendered in similarly situated persons granting retrospective seniority. The Tribunal inter alia referred to the earlier decisions, namely Chitralekha Chakraborty etc. and directed the respondents to fix the seniority position of the applicants according to their relative positions in the panel on the basis of aggregate marks obtained by the applicants vis-à-vis other selected candidates.

3. The respondents filed a Writ Petition against this decision of the Tribunal in WPCT No. 192 of 2003 which was dismissed by order dated 12.2.2004 upholding the decision of the Tribunal.

4. Since even then the respondents did not implement the order the applicants have filed this CPC No. 8 of 2003 and in the CPC the Tribunal directed on 14.5.2004 to comply with the order and file compliance report. Thereafter, the respondent authorities filed a compliance report purportedly implementing the order by office order dated 11.8.2004 (Annexure R-2 to the Supplementary Compliance Report) verified on 12.8.2004. According to this implementation order notional seniority was assigned to the applicants.

5. In the meanwhile the respondents also took the decision of the Tribunal as confirmed by the Hon'ble High Court in Chitralekha Chakraborty's case which was referred to in the order of the Tribunal in the instant case, before the Hon'ble Supreme Court in Civil Appeal No. 6213 of 2008 which was decided by the Hon'ble Supreme Court on 21.10.2008 along with some other related appeals.

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6. The Hon'ble Apex Court had noticed that records of 1985 selection etc. were destroyed in a fire that broke out in the RRB building and further that the relative marks obtained by the different candidates in the examinations were not produced before it nor it could be produced before the Tribunal or before the High Court because of the destruction of the records due to fire. Therefore, the respondents were also not responsible for the delay in appointment of the respondent employees. It was, therefore, directed that seniority of the respondent employees should be fixed from the date of their joining only and not from any earlier date as ordered by the Tribunal.

7. Now it has been argued before us that the applicants herein cannot also get retrospective seniority and that their seniority has to be fixed from the date of joining as held by the Hon'ble supreme Court in Chitralekha Chakraborty's case which was also referred by the Tribunal in the case of the present applicants while disposing the connected OA.

8. Be it noted that the decision of the Hon'ble High Court against the decision of the Tribunal in the present OA was not challenged before the Hon'ble Supreme Court. It has been argued before us by the side of the applicants that the petitioners herein are not similarly situated like the applicants in Chitralekha Chakraborty's case because here the applicants were appointed as Accounts clerk, Gr. I whereas in the other cases, they were appointed in Non-Technical Popular Clerical Category. Therefore, that decision will not be applicable.

9. Having heard the Ld. Counsel for both the parties and having gone through the documents and decisions placed before us we are of the opinion that scope of adjudication in a Contempt proceeding is



very limited. It is only to be seen whether the order of the Tribunal has been complied with or not. Whether Chitralekha Chakraborty's decision of the Hon'ble Apex Court is applicable or not cannot be decided in a Contempt Petition. We notice that the respondents have already granted notional seniority of the applicants vide implementation order dated 11.8.2004 and in the compliance report the respondents have annexed the implementation order referred to above. In such circumstances, we are of the opinion that substantial compliance has been made by the respondents and, therefore, no contempt will lie.

10. Accordingly, the contempt proceedings are dropped. However, the applicants will be at liberty to approach appropriate forum in its original side, if they have any further grievance. MA also stands disposed of. No costs.



MEMBER(A)



VICE CHAIRMAN