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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 05/2006

Date of order: 10.03.2008

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER (J)
HON'BLE MR. R.R. BHANDARI, MEMBER (A)**

1. Jagdish Chander Morya son of Sh. Hapu Ram, aged about 54 years, Resident of Berwala Muhalla Bhadwasia, Jodhpur.
2. Bhagat Singh son of Sh. Sohan Raj, aged about 43 years, Resident of House No. 29, Pal House, Ghanta Ghar, Amar Chowk, Jodhpur.
3. Prakash Chander son of Sh. Fakeer Chand, aged about 33 years, Resident of Sardarpura 1st B Road, Near Nanak Store, Jodhpur.
4. Babu Lal son of Sh. Bhanwar Lal, aged about 44 years, Resident of Baipura Merta Road, Distt. Nagaur, Rajasthan.
5. Ratan Lal son of Sh. Nenoo Ram, aged about 45 years, Resident of House No. 588, Subhash Nagar 'A', Pali, Rajasthan.
6. Dinesh Kumar son of Sh. Ram Parsad, aged about 31 years, Resident of Qr. No. L 84-E, Old Loco Colony, Ratanada, Jodhpur.
7. Santosh Kumar son of Sh. Mangi Lal, aged about 32 years, Resident of House No. 110, Sargara Colony, Near Mandeep House, 9th Choupasani Road, Jodhpur.

All the applicants are presently working on the post of STTE in the office of DCTI, Railway Station, North Western Railway, Jodhpur.

...Applicants.

By Advocate - Shri S.K. Malik.

VERSUS

1. Union of India, through General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Jodhpur Division, Jodhpur.
3. Senior Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur.

... Respondents.

By Advocate - Shri Manoj Bhandari



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ORDER**By Justice A.K. Yog, Member (J)**

Heard learned counsel for the parties.

This O.A. is listed for 'Final Hearing' today. Initially, learned counsel for the respective parties was submitting that identical matter has been pending consideration before Supreme Court/High Court. Our notice is drawn to the order-sheet of this O.A. (particularly order dated 27.04.2007, 02.07.2007 and 10.12.2007).

Before we proceed further, it may be noted that on January 16, 2006, by way of an interim measure, Single Member Bench of this Tribunal, observed ".....On the other hand, the learned counsel for the applicant insists that for the time being the legal rights of applicant may be protected. Keeping in view the interest of both the parties, it is directed that any action taken in pursuance with Annex. A/1 shall be subject to the result of this O.A. and this fact shall be annotated on each communications made thereof." It appears that said interim order has continued.



Again a Two Member Bench of this Tribunal vide order dated 27th April, 2007 (on M.A. No. 63/2007 in the present O.A.) observed "Since the selection is ongoing, without intervening at this stage, we dispose of this M.A. with a direction that the

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outcome of the ongoing selection will be governed by the decision in the O.A. No. 05/2006."

It is admitted case of the applicant, that he had filed representation dated 20.12.2005 (Annexure A/6 to the O.A.) which was not considered and decided by the respondents and being aggrieved he approached this Tribunal by filing the present O.A.

As noted above, till date both the parties contended that identical matters were pending before High Court / Supreme Court and got the hearing of the 'O.A.' 'adjourned' on that score. In the present 'no good' purpose is to be served by keeping the O.A. pending for indefinite period.

At this stage, Shri S.K. Malik, Advocate, learned counsel representing the applicants, makes an endeavour to satisfy that this case be heard and decided on merit as it is not 'identical' case as those pending in High Court/Supreme Court.



Whether this O.A. is covered by matters/cases pending in High Court/Supreme Court or not, we are of considered view that this contention may be raised by the applicant before the respondent-authority to satisfy that the 'issues' raised in this O.A. are not covered by 'cases' said to be pending in High Court/Supreme Court. We cannot decide this as 'fact' in absence of requisite record of those cases said to be pending in High

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Court/Supreme Court. If this O.A. is not covered by said cases pending in High Court/Supreme Court (as per changed stand of the Applicants), the respondents should be required to decide 'representation' said to be filed by the Applicants. It is clarified that in case the respondents come to the conclusion that case of the Applicants is covered by matters pending in High Court/Supreme Court (as stated by Shri Manoj Bhandari, Advocate - representing the respondents), the Respondents shall keep the matter pending and decide their representation on merit in accordance with the final decision of the High Court/Supreme Court in so called 'identical-matters'. Otherwise (i.e. case of the Applicants not being relevant to the so called matters pending in High Court/Supreme Court), representation of the Applicants must be decided on 'merit'.

Consequently, the Applicants shall file a certified copy of this order before the concerned competent authority within a period of four weeks and competent authority shall consider the grievance of the Applicants, within "three months" of receipt of certified copy of this order in the light of the observations made above and communicate its decision forthwith to the applicants.



It is made clear that we have not entered into the merit of the case at this stage. Further, if the matters of the applicants are kept pending by the respondents on the ground that the identical matters are pending consideration before High Court/Supreme Court, even in that eventuality, the applicants'

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case shall be considered in the light of the final decision of the Apex Court/High Court in the said identical matters, if any.



O.A. is finally disposed of subject to the observations and directions given above.

No order as to costs.

R.R. Bhandari
(R.R. Bhandari)
Member (A)

A.K. Yog
(A.K. Yog)
Member (J)

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R/c
Dyng out
14.03.08

Roe
Sik malile
Adv
18/3/08