

In the Central Administrative Tribunal
Calcutta Bench

OA 102/97

Present : Hon'ble Mr.S. Biswas, Member(A)
Hon'ble Mr.N.Prusty, Member(J)

- 1) Arun Ghosh, S/o R.K. GHosh, residing at Pandit Sarada Mukherjee Road, P.O. Ghola Bazar, Dist.24 Parganas(N)
- 2) Malay Kumar Ghosh, S/o N.N. Ghosh, residing at Vill & P.O. Hanskhali, Dist.Nadia
- 3) Kartick Chandra Ghosh, S/o H.C. Ghosh, residing at Vill. Baji Khali, P.O. Krishnannagar, Dist.Nandia

...Applicants

-Vs-

- 1) Union of India, service through the GM, Eastern Rly, Fairlie Place, Calcutta-700 001
- 2) GM, Eastern Rly, Fairlie Place, Calcutta-700 001
- 3) Chief Personnel Officer, Eastern Rly, Fairlie Place, Calcutta-700 001
- 4) Dvl. Rly Manager, Eastern Rly, Sealdah
- 5) Sr.Dvl. Personnel Officer, Eastern Rly, Sealdah
- 6) Station Supdt., Eastern Rly, Sealdah

...Respondents

For the applicants : Mr.K. Sarkar, Counsel

For the respondents : Mr. M.K. Bondyopadhyay, Counsel

Date of Order :

15/12/03

ORDER

Mr.S. Biswas, Member(A)

Heard rival counsel.

2. The applicants have impugned the speaking order dated 10-9-93 - passed by the respondent authority particularly the Senior Divisional Personnel Officer, Eastern Rly (Sealdah) in compliance with the directions of this Tribunal earlier in OA 721/93 on 13-7-93 and have now sought its quashment. They have sought further directions upon the respondents for re-engaging them as substitutes from the date when some of their juniors as detailed in para 4(k) were engaged and then pay consequential benefits. They have also referred about their representations for re-engagement which is also pending to be considered.

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2. The applicants case rests basically on a list dated 18-10-85 which was statedly prepared by the respondents containing 188 approved names including those of the applicants (S.No. 383, 21, 107 thereof) who were allowed to work against "casualties" beyond the permissible limit and so on. The applicants have stated that barring themselves many from this list dated 18-10-85 have already been engaged. They heard and therefore apprehended that there was racket to impersonate them for obtaining job and four such persons got re-engaged by impersonating their names. When no heed was paid to all these and they were not reengaged they moved the OA 721/93 and succeeded to get the impugned speaking order dated 10-9-93. ~~with the~~ ~~the~~ ~~xxxxxxx~~ etc. The applicants further produced a copy of the order dated 10-5-74 in their rejoinder - which shows that the names of the two applicants 1 and 2. As per this order of Divisional Commercial Superintendent dated 10-5-74, these two were selected with 7 others for filling casual vacancies and temporary vacancies in the parcel shed. But all these paid no concrete result or response by way of their re-engagement subsequently.

3. Apart from raising the question of limitation, the respondent authorities have disputed the factual submissions stating that Hon'ble Tribunal had earlier in their order in 721/93 dated 13-7-93 directed to the respondents to look into "their grievances" and "take appropriate action against them in accordance with the rules and give them employment to the genuine (our emphasis) persons who are genuinely enlisted as substitutes". In compliance of this, out of 3 applicants only two appeared before the respondent authorities to establish their claim. Malay Ghosh did not turn up. The learned counsel does not press for his case now.

4. But the respondents on scrutiny of the claim of the remaining two also have stated that none of these persons ever worked at Sealdah Division as Casual substitutes during the material time and in spite of the said speaking order on 10-9-93,

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the applicants remain silent till upto 29-1-97. The claim and supported documents have been rated as fake, imposter as the case be. The annexed documents were declared as fake and incomplete. Even of appointment or medical report as done in genuine cases were submitted.

5. On scrutiny of the working certificate personally by the Sr.Dvl. Personnel Officer it was found that no pay was drawn and disbursed against them. Hence, it is contended that the applicants have taken a chance with resembling names - as reflected in the unapproved panel.

6. We are not in a position to outright discard these contentions of the respondent authorities at this stage. However, we also find that one applicant has already backed out and in respect of others the so called panel dated 18-10-85 is a black out in respect of father's name - which has in most cases been erased or blacked out. We are unable to come to any conclusion regarding the genuineness of their claim on the basis of such truncated documents which has been disputed by respondents also as non relevant to their claim. Tribunal has no mechanism at this stage to say that the averment of the respondents who were asked to scrutinise the genuineness of their claim and bonafide, that they were wrong and the applicants were not fake/imposters. We cannot sit in appellate bench on such outcome of finding in scrutiny directed by us earlier, when the applicants themselves have miserably faulted on limitation.

7. None of the applicants are equipped with any valid or reliable appointment orders. Even the identity card are not in regular format.

8. The applicants in filing a rejoinder had enclosed a further piece of document said to contain the particulars of working days upto Jan'83. This chart contains the name of one Kartick Chandra Ghosh, S/o Harendranath Ghosh - but in the cause title the father's name of this applicant is H.C. Ghosh, though in initials it is clear H.N. Ghosh and H.C. Ghosh are different

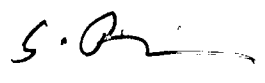
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persons.

9.2. Going by their own records which partially show that they were terminated as unapproved substitutes ^{whosoever they were they} worked for few days annually over a number of years upto 1983, filed the OA in 1993 first and even after the speaking order dated 10-9-93 was passed in strict compliance with the order in OA 721/93 dated 13-7-93, the present OA has been filed after nearly four years without a whisper in para 3 to OA regarding why the said delay was caused. On the contrary, it has been sworn that the OA is within the limitation as prescribed in Sec.21 of Administrative Tribunal Act, 1985.

10.. In view of the foregoing, we find that the OA is not maintainable as well as devoid of merits. There is nothing illegal or improper in the said speaking order dated 10-9-93 to be quashed, modified or interfered with. The OA is accordingly dismissed. No costs.


Member(J)


Member(A)