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MP

Diary No. 1450/11

Diary No. 1628/11

9.8.2011

For Applicant: Sri S.N. Singh Gaharwar
For Respondents: Sri Rajendra Singh

Amendment application has been moved on behalf of the applicant for deletion of relief no.1 and for substitution in its place another relief in the nature of mandamus directing the Opposite parties to permit the applicants to participate in the written examination for the post of Loco Inspector scheduled to be held on 30.7.2011, 6.8.2011 and 13.8.2011 respectively in the light of various judgments of Hon'ble High Court and other Courts as contained in the enclosed Annexure. One judgment of Allahabad CAT dated 4.6.2008 has also been enclosed alongwith amendment application. This judgment mentions about parity, which was being claimed by the applicants before Allahabad CAT at par that the case of Dilraj Singh decided by Hon'ble Supreme Court. It also mentions about other things like footplate experience etc.

No written objection has been filed. But orally it has been pointed out that after the aforesaid judgment of CAT, Allahabad as also the judgment of Dilraj Singh and other High Courts etc. a new circular letter has been issued on 7.6.2010 alongwith other circular letters as mentioned in Annexure-1 to the O.A. itself. Initially in this O.A. under relief 8(1) quashing of impugned selection notification was sought, but now by means of proposed amendment that relief is being dropped. It is said that unless the latest notification issued subsequent to the date of aforesaid judgments of Allahabad CAT and Hon'ble Apex Court are challenged, how this O.A. can succeed. By means of this amendment, in place of original relief, now a relief in the nature of mandamus permitting the applicants to participate in the written examination is being sought, which is not permissible unless the relevant subsequent notifications are challenged because the present notification in respect of examination is based on those notifications/OMs. It is also worthwhile to mention that initially the original relief no.1 was found to be contradictory because on one hand the notification for examination was challenged and on the other hand, permission was sought in favour of the applicants to appear in the same examination. In this regard observations have already been made by this Tribunal in the initial order dated 8.6.2011.

There is a request on behalf of the respondents for some more time to file written objection against amendment application. This is opposed on behalf of the applicant on the ground that the last date of examination i.e. 13.8.2011 would also expire. But

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only three days are left in between and even if above, amendment application is allowed, it would probably not serve the purpose as discussed above.

Therefore, one more opportunity to file objection is given to the respondents. Let, objection be filed positively within 10 days.

Learned counsel for the applicants requests that atleast four posts may be reserved. But in view of the initial order dated 8.6.2011 and also observations made hereinabove, there is no ground to pass such order as this stage.

List on 29.8.2011 for disposal of amendment application.

Meanwhile the applicants may move another amendment application if they are so advised.


(S.P. Singh)
M(A)


(Justice Alok K Singh)
M(J)

Girish/-

Amendment App.1756/2011

In

Joint App.1450/2011

In


D.No.1628/2011

✓ Dated:-29.08.2011. ✓

Hon'ble Sri. Justice Alok Kumar Singh, Member (J)

Hon'ble Sri. S.P. Singh, Member (J)

List revised. Nobody is responding for the applicant. From the other side Sri Rajendra Singh is present. It is noteworthy that joint application is still pending and therefore a regular number has not been allotted after noting it in diary by the office. Consequently, M.P. is rejected for default.


Member (A)


Member (J)

Amit/-

O.R.
objection
not filed by
counsel for
respondents.
Another M.P.
for amendment
not filed by
counsel for
applicant.
Vam
25.8.11

of
certified number
dated 29.8.11
for
05-9-2011