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CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA.

OA No.518 of 2005

Date of order : 11th August, 2005

C O R A M



Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman

Afzal Haque Quadri

.....

Applicant

Vrs.

Union of India & Ors.

.....

Respondents.

Counsel for the applicant : Shri M.P.Dixit

Counsel for the respondents : Shri M.K.Mishra, Sr.S.C.

ORDER

By P.K.Sinha, V.C. :-

Heard Shri M.P.Dixit, counsel for the applicant and Shri M.K.Mishra, Id. Sr.S.C. for the respondents.

2. In this application, the request is to issue direction to consider the case of the applicant and of Respondent No.6 [Md. Shakil Ahmed Azad] for appointment to the post of Library and Information Assistant. This has been claimed in view of the office memorandum issued by the respondents at Annexure-A/2. The Id. counsel for the applicant submits that out of the

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persons working in casual manner in the Library and as per decision of the authorities, only the applicant and the Respondent No.6 have the requisite qualification of Bachelor of Library and Information Science who are working since 11.2.1991 and 4.1.1991, respectively. It is submitted that

Respondent No.6 had earlier come before this Tribunal, whose case stood on similar footing, in O.A. No.837 of 2003, disposed of by an order of this

Tribunal dated 4.6.2004, in which after discussing the merits of the case,

this Tribunal directed the Respondent No.5 to re-consider the case of the applicant of the O.A. concerned, for regularisation to the post of Librarian

against the available vacant post and to pass appropriate orders. The

ld.counsel for the applicant submits that the aforesaid order of the Tribunal

was challenged in the High Court in C.w.J.C. No. 2911/2005 and the same

was dismissed vide order dated 15.3.2005 in view of the decision of the

Apex Court in the case of Bhagwati Prasad vs. Delhi State Mineral

Development Corporation ; AIR 1990 SC 371.

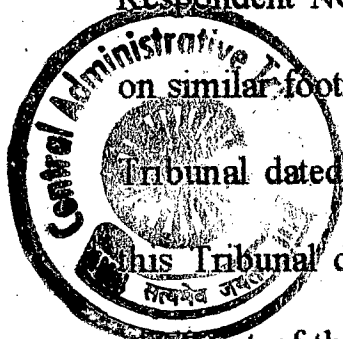
3. The applicant moved directly to the High Court in C.W.J.C. No.6137

of 2005 which was disposed of by an order dated 27.6.2005 observing that

the applicant should not have come to that court directly, and should have

approached the Tribunal on the ground that he was not a party in the earlier

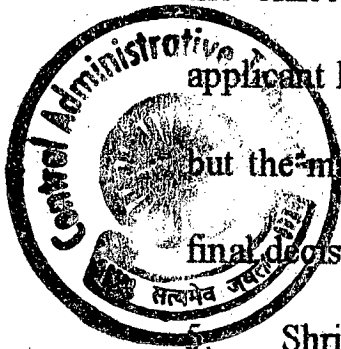
proceeding initiated in the instance of Respondent No.9.



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4. Annexure-A/7 was also pointed out in which the matter of regularisation of the applicant was taken up by the authorities who by their letter dated 21.7.2004, had directed the applicant to appear before them in the office with the documents mentioned therein. The claim is that the applicant had appeared in the office of the respondents with the documents but the matter is still spending before the respondents who have not taken final decision.



5. Shri M.K.Mishra, Id. Sr.S.C. for the respondents submits that as per the applicant himself, the matter is under active consideration of the respondents who had issued letter, vide Annexure-A/7, hence they should be given an opportunity to decide the matter at their level.

6. Since the matter is still pending before the respondents, this application is disposed of with direction to the Respondent No.3 to treat this O.A. as a representation and to consider the case of the applicant alongwith case[s] of eligible other candidate[s], in case a decision has not been taken as yet and to decide the matter in accordance with law and extant rules within a period of three months from the date of receipt of a copy of this order alongwith copy of the application with annexures. The applicant is directed to provide, within three weeks, a copy of this order alongwith a copy of the application with annexures, to the Respondent No.3.

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7. It is made clear that so far as the merits of the application is concerned, this Tribunal at this stage has not expressed any opinion.

8. The O.A. stands disposed of with no order as to costs.



mps.

True Copy

[P.K. Sinha]
Vice-Chairman

Certified that this is a true and accurate copy of the document/order as in the case file OA/RA/TA/CP/MA/PT No. 199 and that all the matters appearing therein have been legibly and faithfully copied with no modifications."

**Deputy Registrar
Central Admn. Tribunal,
PATNA BENCH**