

CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH, JAIPUR

Original Application No. 445/2012

Date of order: 03/06/2016

Coram:

**Hon'ble Dr. K.B. Suresh, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member**

Pramod Pathak, aged about 36 years, son of Shri Shiv Shankar Pathak, resident of 3, Siddharth Colony, Chandra Kirti, In front of Sodala Thana, Anaj Mandi, Ajmer Road, Sodala, Jaipur-302006.

.....Applicant

(Applicant present in person)

VERSUS

1. Union of India through its Secretary, Ministry of Labour and Employment, Government of India, Shram Shakti Bhawan, New Delhi.
2. Director, Central Board of Workers Education, Ministry of Labour & Employment, Government of India, North Ambazari Road, Nagpur-440033.
3. The Zonal Director, Central Board for Workers' Education, Ministry of Labour & Employment, Government of India, 1st Floor, Sarai Kale Khan, Nizamuddin (East), New Delhi.
4. Regional Director, Central Board for Workers' Education, Ministry of Labour & Employment, Government of India, Madrampura Civil Lines, Jaipur.

.....Respondents

(None present for the respondents.)

ORDER

(By : Hon'ble Dr. K.B. Suresh, Member Judicial)



Heard.

2. This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 aggrieved with Annexure-A/1 dated 01/06/2012 by which his legal notice has been rejected and thereby praying for following reliefs:

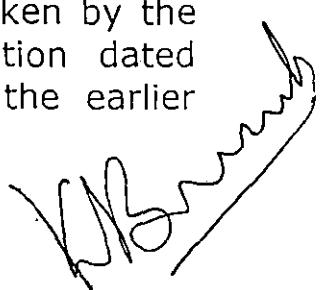
- i) To quash and set aside the impugned letter dated 1/6/2012 (Annexure 1) of the Additional Director, Central Board of Worker's Education, Nagpur;
- ii) Direct the respondents to first complete the recruitment process of the 22nd Batch and give appointments before proceeding further with the 23rd batch by holding interviews in pursuance of the results declared on 16/2/2011;
- iii) Direct the respondents to give appointment to the Applicant on the post of Education officer Worker's Education with all consequential benefits;
- iv) award the costs of this Original Application;
- v) grant such other and further relief/s, as may be deemed just and expedient in the facts and circumstances of the case so as to give full relief to the applicant.

2. The brief facts of the case are the respondents issued advertisement for the 22nd Education Officers'

examination published in Rozgar Samachar on 24/07/2005. The applicant who applied was issued intimation for written test to be held at New Delhi on 25/02/2007. However without declaring the result of the written examination respondents issued a fresh advertisement for 23rd Education Officers/Training Course. The applicant aggrieved with the aforesaid action of the respondents filed OA before this Tribunal registered as OA No. 481/2011 and this Tribunal vide order dated 21/10/2011 dismissed the same on account of delay and latches, but the applicant was given liberty to file representation before the competent authority for redressal of his grievances and it was for the respondents to consider the representation of the applicant in accordance with the provisions of law. The applicant filed DB CPW No. 15306/2011 before the Hon'ble Rajasthan High Court but it was also dismissed with the same directions.

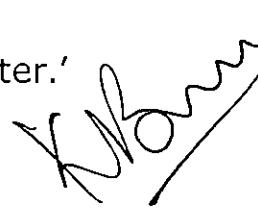
3. The applicant while arguing submitted that one OA No. 601/2009 was filed before the Central Administrative Tribunal, Calcutta on the same subject of not declaring the result of the 22nd Batch Examination. The Central Administrative Tribunal, Calcutta allowed the OA (Annexure-A/5) and directed the respondents to the following effect vide judgment dated 05/12/2011:

“It is accordingly directed that the result of the written test be published within two months from the date of issue of this order. No steps should be taken by the respondents in respect of their notification dated 13.9.11 till publication of the result of the earlier selection of 2007.”



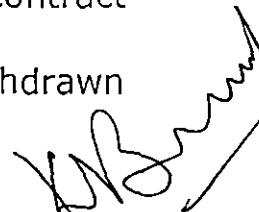
4. Thereafter, the respondents declared the result of 22nd batch on 16/02/2012 (Annexure-A/6) in which the name of the applicant figures at Sl. No. 18. Even after declaration of the result no interview was held and the applicant served a notice of demand of justice dated 28/05/2012 (Annexure-A/7) which has been replied vide Annexure-A/2 dated 01/06/2012 citing the judgment of Hon'ble High Court of Rajasthan.

5. The applicant submitted that the similar and identical to the applicant in OA at Calcutta Bench in OA No. 601/2009. The result was directed to be published therefore the respondents are bound to take further actions per the result and case cannot be rejected on the basis of order of Hon'ble High Court as in the same order he was permitted to file a representation and once result has been declared and when the applicant has been declared successful respondents are bound to carry out the remaining process of selection. The respondents have filed the reply and have referred to the decision of the Hon'ble Supreme Court, in the case of Union of India and Ors. V/s Kali Dass Batish & another, 2006 SCC (L&S) 225, vide judgment dated 05/01/2006 in C.A. No. 6663 of 2004, has held that "mere inclusion of the name of the candidate in the select list gives no right to him to demand appointment." Respondents have also considered and referred that "CBWE will not enter into correspondence with the candidates about reason for their non-selection or any other matter."



6. In governance the most functional challenge which is faced today is lack of responsibility among senior officers. Having invited application for the post of Educational Officers examination in 2005/and held written test in 2007 and not declaring the result of the same and then calling applications in 2011 for 23rd educational Training Course can be seen only as undue arrogance and nothing else. It is correct that Supreme Court has held that by mere inclusion of name of the candidate in the list will not obtain any right to demand for appointment but it also does not mean that it is just expectation and nothing more. Without any doubt the rules of estoppel will clearly preclude anybody from assuming that nothing should go from a promise made. When an examination is held, a promise is made and it is expected that some action would be taken on that. It is implicit in that promise that vacancies are verified and then only notified to be filled up. There is no sovereign impunity for government official in the present day democratic policy. Therefore Hon'ble Apex Court Judgment quoted in the reply is of no use to claim absolute impunity for their inaction.

7. The respondents have said in point No. 5 that they have made it clear that "CBWE will not enter into correspondence with the candidates about reason for their non selection or any other matter." As a normal rule we will also accept it but then they are bound to give reason as to why something could not be done. After being in contract and accepted by a concerned person it cannot be withdrawn



as principal of promissory estoppel, is applicable to the government also.

8. It appears that the matter is covered by the Judgement of the brother Bench at Kolkata in Original Application No. 601/2009 dated 05/12/2011 and we are in respectful agreement with principle laid down in the said judgement of Calcutta Bench, to the same effect. The applicants' rights also will be protected on the basis of above judgement by the Hon'ble Calcutta Bench of the Tribunal.

9. Accordingly, present applicant's case shall also be considered on merit and he will not be required to apply afresh and nor will be barred by the limitation of age bar or any other inequities. Original Application is allowed as above. No costs.



(Ms. Meenakshi Hooja)
Administrative Member


(Dr. K.B. Suresh)
Judicial Member

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