

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, 234/4 A.J.C Bose Road Nizam Palace Kolkata



ORDER SHEET

COURT NO. : 1

08.08.2018

O.A./350/682/2018

M.A./350/356/2018

(MENTIONED)

ITEM NO:4

FOR APPLICANTS(S) Adv. :

ARUP BANERJEE & OTHERS

-V/S-

EASTERN RAILWAY

Mr. C.Sinha

FOR RESPONDENTS(S) Adv.:

Notes of The Registry	Order of The Tribunal
	<p>Heard Mr. C.Sinha, Ld. Counsel for the applicants.</p> <p>2. M.A.No. 356/2018 filed for joint prosecution of this case is allowed.</p> <p>3. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:</p> <p>“8.(a) Liberty may be given under rule 4(5) (a) of the CAT (Procedure) Rules 1987 to file and maintain original application jointly.</p> <p>(b) To set aside and quash impugned letter impugned letter number EL (Elect)/ LP(P)/17 dated 15.11.2017 issued by Sr. Divisional Personnel Officer, Eastern Railway, Asansol.</p> <p>(c) To set aside and quash impugned Notice No. ETS/1/3/Prom/17 dated 28.11.2017 issued by CCNL(E)/OPN/ASN.</p> <p>(d) To set aside and quash impugned Office Order No. EL/Elect./LP(Pass)/ 18 dated 15.01.2018 issued by Sr. Divisional Personnel Officer, Eastern Railway, Asansol.</p> <p>(e) To set aside and quash impugned Notice No. ETS/1/3/Prom/18 dated 22.01.2018 issued by CCNL(E)/OPN/ASN.</p> <p>(f) To direct the respondents to consider the case of the applicants for promotion to the post of Loco Pilot (Pass)/Elect by holding a suitability test and</p>

recasting the panel as published in terms of letter dated 15.11.2017 issued by Sr. DPO, Eastern Railway, Asansol strictly in terms of mandate in M.Nagraj vs. U.O.I. & Ors.

(g) Any other order....."

4. The case of the applicant, in short, is that the applicants in the instant application are aggrieved by the action of the respondent authorities in holding selection for the post of Loco Pilot (Pass)/ Elect in an illegal, arbitrary and unlawful manner whereby added advantage has been given to the SC/ST candidates who are far junior than the applicants in the feeder post violating the mandate as advanced by Hon'ble Apex Court in the case of M. Nagaraj & Ors. -vs- Union of India & Ors., 2007 (1) SCC L&S 1013. It has further been submitted that further 24 posts belonging to UR category is unfilled in the said selection process though the applicants being senior most candidates come very much within the zone of consideration in a selection process where the same is conducted by suitability with prescribed benchmark (RBE 161/09). Ld. Counsel for the applicant submitted that ventilating his grievance the applicants have made a joint representation dated 08.02.2018 (Annexure-A/6), which is stated to be pending with Respondent No.5 for consideration. Ld. Counsel for the applicant submitted that the grievance of the applicant may be redressed if a specific direction is given to Respondent No.5 to consider the said representation under Annexure-A/6 within a specific time frame.

5. Taking into account the submissions made by Mr. C.Sinha, Ld. Counsel for the applicant, I do not think that it will be prejudicial to either of the sides if this O.A. is allowed to be disposed of. Accordingly, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No.5 to consider the representation as at Annexure-A/6 dated 08.02.2018, if any such representation has been preferred and is still pending consideration, keeping in mind the judgment passed by the Hon'ble Apex Court in the case of M.Nagraj and Ors. Vs. Union of India [2007(1) SC (L&S) 1013] and RBE No. 161/2009 (Annexure-A/8) and pass a reasoned and speaking order within a period of six weeks from the date of receipt of copy of this order.

6. Although, I have not expressed any opinion on the merit of the matter and all the points raised in the representation, stated to have been made and is still pending consideration

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before Respondent No.5, will be considered as per Rules and Regulations in force, still then we hope and trust that if after such consideration applicants' grievance is found to be genuine then expeditious steps may be taken by the Official Respondents to redress his grievance within a further period of six weeks therefrom. However, we also make it clear that if in the meantime the said representation under Annexure-A/6 has already been considered and disposed of then result of the same be communicated to the applicant within a period of two weeks from the date of receipt of this order.

7. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.

8. As prayed for by Ld. Counsel for the applicant, copy of this order along with paperbook be transmitted to Respondent No.5 by Speed Post for which he undertakes to deposit the cost with the Registry by 10.08.2018.

9. Free copies of this order be handed over to the Ld. Counsels for both the sides.

(A.K. PATNAIK)
MEMBER (J)

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