

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/739/2016
MA 350/223/2017
MA 350/305/2016
MA 350/91/2017
MA 350/170/2017
MA 350/390/2017

dt. of order: 27.7.2017

Present: Hon'ble Mr. S.K. Patnaik, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

DR. NARENDRA SHANKAR PANDEY

VS

UNION OF INDIA & ORS.

For the applicant : Mr. S.K. Dutta, counsel
Mr. A. Chakraborty, counsel

For the respondents: Ms. P. Goswami, counsel
Mr. A.K. Chattopadhyay, counsel

O R D E R

Ms. Jaya Das Gupta, A.M.

OA 739/2016 has been filed by the applicant Dr. Narendra Shankar Pandey. MA 223/2017 has been filed by the applicant. MA 305/2016 has been filed by the private respondents for impleadment of parties. MA 91/2017 filed by private respondents seek clarification of the order dated 17.5.2016. Similarly MA 170/2017 has also been filed by private respondents seeking clarification of the order dated 17.5.2016. MA 390/2017 has been filed by the official respondents for vacation of interim relief granted in order dated 17.5.2016.

2. The applicant Dr. Narendra Shankar Pandey, working as Dy. Director Central Forensic Science Laboratory, Kolkata had filed OA 739/2016 on 12.5.2016 seeking the following reliefs :

- a) To direct the respondent authorities to stay and recall the notice issued by the UPSC dated 28.4.2016 for holding the Board Assessment to consider for promotion from Deputy Director & Scientist 'D' to Scientist 'E' under FCS scheme on 20.5.2016 at 10.30 AM forthwith and also to recall/rescind benefits of the scheme if extended pursuant to notice dated 28.4.2016 and further recall/rescind the Personal Talk Letters dated 9.5.2016 issued by the respondents;
- b) To direct the respondent authorities to consider the applicant's case as directed on 3.12.2015 and allow him to appear Assessment Board to be held on 20.5.2016 for the post of Director under FCS Scheme by treating him as a candidate of 2008 and in the light of Preetpal

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- Singh's case; N.R.Parmar's case as well as DOP&T Guidelines dated 25.3.1996 and judgment passed in Dhirender Singh Pariwal's case (supra) after treating him eligible;
- c) To pass further order or orders, direction or directions as to this Hon'ble Tribunal may deem fit and proper for securing the ends of justice;
 - d) Interim relief to maintain status quo as regard the notice issued by the UPSC dated 28.4.2016 for consideration of promotion from Deputy Director & Scientist 'D' to Scientist 'E' under FCS scheme by Assessment Board of UPSC to be held on 20.5.2016 and Personal Talk Letter dated 9.5.2016 till disposal of the instant Original Application and/or alternatively not to declare the result which are recommendation of such Assessment Board without due leave of this Hon'ble Court.

Interim relief has also been sought in the above OA to maintain status quo as regards the notice issued by the UPSC dated 28.4.2016 for consideration of promotion from Dy. Director cum Scientist 'D' to Director cum Scientist 'E' under flexible complementing scheme (FCS) by the Assessment Board of UPSC to be held on 20.5.2016 and personnel talk letter dated 9.5.2016 till disposal of the instant OA and/or alternatively not to declare the result which are recommendations of such Assessment Board without due leave of this Court.

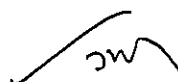
3. Accordingly the applicant had moved the Vacation Bench on 17.5.2016 for above interim relief as decisions regarding promotion/upgradation of private respondents were to be taken on 20.5.2016, which would hit the interest of the applicant. The Vacation Bench sitting singly heard the matter and ordered (where both sides were present) on 17.5.2016 the relevant portion of which is set out below :

"4. The question of urgency has arisen today because the respondent authorities are alleged to have decided to hold a screening committee/DPC meeting on 20.5.2016 regarding upgradation which may affect the interests of applicant. The Id. Counsel for the respondents wants to file reply.

5. In view of such matter, it is ordered that the result of the screening committee/DPC will be subject to the decision of this OA.

6. The respondents are granted 4 weeks time to file reply and thereafter the applicant is granted 2 weeks time to file rejoinder, if any, List this matter on 12.5.2016."

4. It appears that the said screening committee/DPC meeting or personal talk as the case may be was held on 20.5.2016 but the results arrived at by the Committee was not given effect to because of the alleged interim order given by the vacation Bench on 17.5.2016. Accordingly MA applications have been filed



by the private respondents in MA 170/2017 and MA 91/2017. An MA application has been filed on behalf of the respondent authorities in MA 390/2017 on 28.4.2017.

5. MA 170/2017 and MA 91/2017 filed by the private respondents sought clarification of the order dated 17.5.2016 to the effect that pendency of the application will not be the bar to publish the result of the screening/assessment test for upgradation to the post of Director/Scientist 'E'.

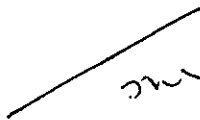
MA 390/2017 filed by the official respondents have sought the relief that the interim order dated 17.5.2016 should be vacated as the insitu promotion of Scientist 'D' to Scientist 'E' had been held up.

6. I had passed the order on 17.5.2016 sitting singly and I am pained to state that the order dated 17.5.2016 has been chosen to be misunderstood by the respondent authorities without any cogent reasons. The order is very clear that the screening committee meeting as scheduled will be held as decided earlier and decisions as per the recommendations shall be effected by the respondent authorities. Such decisions which shall be taken after implementation shall be subject to the final outcome of the OA. Hence there was no bar at all from declaring the result of the screening committee/DPC meeting or personal talk as the case may be and taking actions accordingly. However, after implementation, the effect of such recommendation emanating on 20.5.2016 may or may not change subsequently as this will depend on final outcome of OA. It is reprehensible that the respondent authorities chose to misunderstood such an order and filed an MA for vacation of the interim order in MA 390/2017 only on 8.4.2017 i.e. after about a year the order dated 17.5.2016 was issued.

7. Hence it is directed that the recommendations of the authorities arrived at on 20.5.2016 should be implemented forthwith after getting a certified copy of this order and actions taken accordingly.

8. MA 170/2017, MA 390/2017 and MA 91/2017 are thus disposed of.

9. MA 305/2016 praying for impleadment of parties is allowed.



10. OA 739/2016 and MA 223/2017 will be listed for final hearing on 28.8.2017 by which date the applicant may file his rejoinder to the reply filed in the OA.

(JAYA DAS GUPTA)
ADMINISTRATIVE MEMBER

(S.K. PATTANAİK)
JUDICIAL MEMBER

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