

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

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O.A 350/891/2015

Date of Order: 19.09.2018

M.A 350/192/2017

With

M.A/350/340/2018 (arising out of OA 202/2003).

Coram : Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

ALOE RANJAN RAY & ORS
VERSUS
EASTERN RAILWAY

For the Applicant(s): Mr. A. Chakraborty, Counsel
For the Respondent(s): Mr. S. Banerjee, Counsel

ORDER (ORAL)

Per: . Dr. Nandita Chatterjee, Administrative Member:

On MA 192/2017 arising out of O.A No. 891/2015:

An M.A bearing No. 192/2017 arising out of O.A No. 891/2015 has been filed by the applicants (135 in number) praying for joint prosecution on grounds of common interest and common cause of action. With the consent of Ld. Counsel for the parties, M.A No. 192/2017 is allowed and disposed of under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987.

On M.A No. 340/2018 arising out of O.A No. 202/2003:

We prefer not to issue any orders in the Misc. Application No. 340/2018 as the prayer made in the said M.A has been subsumed in OA No. 891/2015. M.A. No. 340/2018 is disposed of with these observations.

On O.A 891/2015:

Ld. Counsel for both sides are present and we have heard them at length. Ld. Counsel for applicants vociferously urges that, given that the applicants were discharged by the Ld. Magistrate's court and that the documents of the applicants were not proved to be fraudulent in any investigation, the

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applicants' have a rightful claim for absorption as Group 'D' staff in the Railways.

Ld. Counsel for the Respondents submits that a modification application has been submitted in the background of Apex Court's orders to direct the applicants to submit their primary documents in support of their claim.

2. In O.A 202/2003, the Tribunal vide its order dated 01.04.2004, had issued the following directions:

" 9. Accordingly I dispose of the application with a direction to respondent No. 3 i.e DRM Sealdah to file a report before the competent police authority within two months by indicating which documents produced by the applicants are forged and fabricated and further stating whether the applicants are genuine persons or impersonators for making appropriate investigation. After such investigating report is produced before the competent authority the matter shall be reconsidered and settled in accordance with the rules, instructions, circulars, etc. within 6 months from the date of receipt of the investigating report. The applicants shall co-operate with the police as well as the respondent authorities for timely settlement of the dispute."

3. Accordingly, the case bearing No. 242(1)05 was filed in the Court of Ld. Judicial Magistrate, Sealdah, who disposed of the same vide order dated 03.10.2008 concluding as follows:

"There is no necessity for further investigation in this case. Accordingly, report of IO as FRMF is accepted. The accused persons as FIR named are discharged from this case. Seized articles/documents be returned to the persons from whom seized upon verifying the identity as per law subject to any order if passed by higher forum."

4. It has been admitted by the respondents in their reply that, after a series of movements in higher judicial fora, finally the Hon'ble High Court of Kolkata had heard the matter (CRR 1470/2011) and ordered as follows:

"Accordingly, the order impugned of the Ld. Fast Track Court (II) Sealdah dated 25th Jan, 2011 stands set aside and the order of the Ld. Magistrate dated 3rd October, 2008 stands restored."

CCR 1470/2011 stands accordingly allowed."

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5 Accordingly, the directions of the Tribunal in OA 202/2003 wherefrom the decisions of Ld. Magistrate dated 03.10.2008, namely, that the accused persons as FIR named be discharged and the report of the IO as FRMF accepted, has attained finality. Consequently, whichever documents had been filed by the respondent No. 3, i.e DRM Sealdah, in O.A 202/2003 relating to the applicants were not proved to be forged or fabricated by the court of the Ld. Magistrate.

6. Further, as there were no acceptable submissions on behalf of the then Senior, DPO, Sealdah, Shri P.K.Chatterjee, since superannuated, the investigation was closed. What was left for the Respondent authorities, however, was to reconsider the matter in accordance with law. During hearing, the respondents had referred to M.A. 340/2018 submitted in compliance to directions of the Hon'ble Apex Court in SLP (Criminal) Diary No. 36803/2017 and prayed for directions on the applicants of the O.A. to produce primary documents before the Respondents to enable verification of their claim as per Rules.

7. The Ld. Magistrate's court had directed that the seized articles and documents should be returned to the applicants. We hence direct the applicants to submit such documents, either in original or as true copies, to the respondent authorities to substantiate their claims made at the relevant point of time. It is made clear at the same time, however, that if such documents, which have been alleged to be forged and fabricated in the report of DRM Sealdah filed in compliance to the Tribunal's order dated 01.04.2004, are submitted by the applicants, the respondents will not raise any further questions on the genuineness of the same as per the orders of Court of the Learned Magistrate. The respondent authorities are, therefore, directed to accept such documents and pass orders accordingly on the merit of the claims against vacancies and in accordance with law. In case such claims are substantiated as per Rules, the Respondents are directed to issue orders for absorption of such applicants.

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8. This entire exercise is to be completed within a period of 12 weeks from the date of receipt of a copy of this order.

9. With this, O.A 891/2015 is disposed of. There will be no order as to costs.

(Dr. Nandita Chatterjee)
Member (A)

(Manjula Das)
Member (J)

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