

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

ORDER SHEET

COURT NO. : 1

10.08.2018

O.A./350/1113/2018
(MENTIONED) (SB)KRISHNA MAJUMDER
-V/S-
EASTERN RAILWAY

ITEM NO:9

FOR APPLICANTS(S) Adv. :

Ms. M. Roy Dey

FOR RESPONDENTS(S) Adv.:

Mr. A. K Banerjee

| Notes of The Registry | Order of The Tribunal |
|-----------------------|--|
| | <u>ORDER (ORAL)</u> |
| | <p><u>Mr. A.K Patnaik, Member (J):</u></p> <p>This O.A has been filed under Section 19 of the AT Act, 1985 seeking the following relief:</p> <ol style="list-style-type: none"> i. Direct the respondent authorities to take immediate and efficacious steps in the matter by initiating appropriate proceedings against the respondent no. 7 herein, viz. Sri Biswanath Majumder, so that he may not be allowed to deprive his true wife and son by indulging in some gross misconduct of service; ii. Direct the respondent authorities, their men, agents, and servants to recognize only the instant applicant and her son Ranabir Majumder as the true and lawful members of the family of Sri Biswanath Majumder, respondent no. 7 herein, and to incorporate their names in all the relevant papers relating to the service of Sri Biswanath Majumder, as his wife and son ; iii. Direct the respondent authorities to consider the objections made by the applicant and dispose of the matter strictly in accordance with law; iv. Direct the respondent authorities to produce the records of the case and after perusal of the same pass appropriate order(s); v. Give any other or further relief(s) to which the instant applicant is entitled to, as this Learned Tribunal deems fit and proper." <p>2. Heard ld. counsel Ms. M. Roy Dey, appearing on behalf of the applicant. Mr. A. K Banerjee, who usually appears for South Eastern Railway is present in court and on my advice he appeared on behalf of the respondents. On my instructions, ld. counsel for the applicant served a copy of the O.A to Mr. Banerjee.</p> <p>3. Brief facts of this case as narrated by Ms. M. Roy Dey, ld. counsel for the applicant are that the applicant, Smt. Krishna Majumder, is the</p> |

legally married wife of Shri Biswanath Majumder, (respondent No. 7 in this O.A). Ld. counsel for the applicant submitted that despite subsistence of matrimonial tie in between the applicant and Shri Biswanath Majumder, the latter resorted to falsity and perpetrating fraud, wiped out the names of his wife and son, namely, Krishna Majumder and Ranabir Majumder from his family declarations in the service records and instead falsely incorporated the names of Smt. Lakshmi Majumder and Laboni Majumder as his wife and daughter. Ld. counsel for the applicant further submitted that the applicant had brought to the knowledge of the respondent authorities about the said misconduct on the part of the Respondent No. 7, (Shri Biswanath Majumder), on several occasions, but no step has been taken to redress the grievance of the applicant. Being aggrieved, the applicant has approached this Tribunal seeking the aforesaid reliefs.

4. On the other hand, Mr. S. Banerjee appearing for the official respondents vehemently opposed the very maintainability of this O.A by submitting that this O.A is not maintainable in the eye of law being hit by Section 20 of the Administrative Tribunals Act, because the applicant has approached this Tribunal without ventilating his grievance before the authorities concerned, which is required under the provisions of Section 20 of the AT Act.

5. At this juncture, ld. counsel for the applicant has brought to my notice to Annexure A/5 which is a legal notice dated 16.04.2018.

6. In my considered view, a legal notice issued by an Advocate cannot be treated as representation. Advocate is an officer of the court and any representation preferred to the authorities should not be at the behest of an advocate except in cases where court orders are passed to that effect. Therefore, in my view, the O.A deserves to be dismissed as argued by Mr. A. K Banerjee, ld. counsel for the respondents.

7. However, on sincere prayer made by Ms. M. Roy Dey, Ld. counsel for the applicant, this O.A is disposed of with liberty to the applicant to file a comprehensive representation to the Respondent No. 2, i.e., (the General Manager, Eastern Railway, Fairlie Place, Netaji Subhas Road, Kolkata) within a period of 4 weeks from the date of receipt of a copy of this order enclosing the copies of the relevant documents and a copy of this order. If such representation is preferred by the applicant within 4 weeks, then the Respondent No. 2 i.e (the General Manager, Eastern Railway, Fairlie Place, Netaji Subhas Road, Kolkata) is directed to consider and dispose of the same keeping in mind the points raised in the said representation (if so preferred) and the relevant rules and


regulations governing the field and pass a reasoned and speaking order within a period of 6 weeks from the date of receipt of the same under communication to the applicant. After such consideration, if the applicant's grievance is found to be genuine, then the Respondent No. 2 shall grant him the consequential benefits within a period of 3 months from the date of taking decision in the matter.

8. Liberty is given to the applicant to annex a copy of this order along with the representation to be preferred to the Respondent No. 2.

9. It is made clear that I have not gone into the merit of this case and all the points to be raised in the representation of the applicant are kept open for consideration by the respondent authorities as per rules and regulations in force.

10. With the above observations and directions, the O.A is disposed of. No order as to costs.

11. As prayed for by ld. counsel for the applicant, a copy of this order along with paper book be transmitted to Respondent No. 2 by the Registry through speed post for which ld. counsel for the applicant undertakes to deposit the cost within a week. A free copy of this order be handed over to ld. counsel for the respondents who is present and heard today.



(A.K. PATNAIK)
MEMBER (J)

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