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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA1402 of 2013

Date of order : 1.12.2016

Present: Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

PROVAT CH BARMAN

VS

UNION OF INDIA & ORS.

For the applicant : Mr.J.R.Das, counsel

For the respondents : Mr.BP.Manna, counsel

O R D E R (ORAL)

Justice Shri V.C.Gupta, J.M.

Heard ld. Counsel for the applicant and the ld. Counsel for the respondents.

2. The applicant prays for the following reliefs in this OA :

- a) Order do issue directing upon the respondents to implement the judgment and order of the Hon'ble Tribunal dt. 13.9.13 in true letter and spirit to allow the applicant who appeared in the earlier selection in the said recruitment process.
- b) Order do issue directing upon the respondents to allow the candidate only who appear in the earlier selection.

3. The fact giving rise to this petition are that the applicant, in pursuance of an advertisement dated 24.9.08, to fill up one vacancy of GDSBPM at Bhetaguri BO under Cooch Behar HO, applied for the post along with 27 others. However, top 5 meritorious candidates were placed in the select list wherein the name of the applicant was at Sl. No.2. He was called for bio-data verification by sending a letter on 28.5.09 but the letter could not reach prior to 3.6.09 and consequently the applicant could not appear for bio-data verification. When he was not allowed to participate in the selection, he filed an OA before this Tribunal being OA No. 363/10, which was disposed of by an order dated 13.9.13. The operative portion of the order is extracted hereinbelow:

"In such view of the matter, as the post is not yet filled up, we quash the entire selection and direct the authorities to re-advertise the post, **within a month, to allow the candidates of earlier selection to participate**, and by giving suitable time to the candidates to attend at the bio-data verification, complete the process within 6 months from the date of communication of this order."

Thereafter in pursuance of the direction of this Tribunal a fresh advertisement was issued on 30.9.13.

4. Aggrieved by the issuance of fresh advertisement, the applicant file the present OA alleging inter alia that in view of the direction issued by this Tribunal in pursuance of advertisement dt 30.9.13 no other candidate should be allowed to participate. But the respondents considered the applications of those candidates who are not the participants of the earlier selection process and he prayed for staying the process of selection and cancellation of the fresh advertisement.

5. Reply has been filed by the respondents where it has been contended that fresh advertisement was issued in pursuance of the order passed by this Tribunal which was virtually an open advertisement. The present applicant was also allowed to participate and the respondents granted him liberty to appear and he also participated in the process of selection, but could not succeed. On this score it has been contended that the applicant has no case.

6. Rejoinder affidavit has been filed reiterating the earlier stand.

7. Today minutes of Selection Committee meeting dated 13.9.14 has been placed on record which shows that the selection process had already completed and one Avisek Barman topped the select list and was selected for the post and give engagement vide letter dated 14.11.14 and he joined on 14.11.14. By filing this document it has been submitted that the selection process is over and the vacancy is filled up in accordance with law.

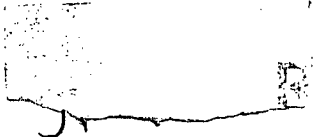
8. Ld. Counsel for the applicant vehemently argued that the direction which has been issued by this Tribunal on earlier occasion and quoted hereinabove prohibits the respondents to allow any other candidate except those who participated in the earlier process of selection.

9. We have gone through the direction issued by this Tribunal on earlier occasion which has been quoted hereinabove. The language of the direction issued by this Tribunal is very clear. There is no ambiguity at all. The Tribunal has directed the authorities to re-advertise the post and has not directed that the selection process should be completed on the basis of participation of the participants of the earlier selection alone.

It is also crystal clear that after re-advertisement of the post the earlier participant were also allowed to participate in the selection process.

10. Hence we are of the view that there is no merit in the submissions made by the Id. Counsel for the applicant.

11. The OA therefore lacks merit and is dismissed. No order as to costs.



(JAYA DAS GUPTA)
MEMBER (A)



(JUSTICE V.C. GUPTA)
MEMBER (J)

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