



CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. OA 350/1619/2016

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

**ABANI KUMAR BERA**

S/o Late Lal Mohan Bera,  
Working as PGT/History in  
Deshbandhu Vidyalay Boys School  
(HM)/CLW, Chittaranjan, under  
CPO CLW, Chittaranjan,  
R/o Street No. 70, Qrt. No.75/A,  
P.O. & P.S. - Chittaranjan,  
Dist. - Burdwan, Pin - 713331.

...APPLICANT

VERSUS

1. Union of India, through  
General Manager,  
CLW, Chittaranjan,  
Dist. - Burdwan,  
Pin - 713331.
2. Chief Personnel Officer,  
CLW, Chittaranjan,  
Dist. - Burdwan,  
Pin - 713331.

...RESPONDENTS.

For the applicant : Mr. C.Sinha, counsel

For the respondents: Mr.A.K.Banerjee, counsel

Heard on : 28.4.2017

Order on : 18.5.2017

O R D E R

Ms.Jaya Das Gupta, A.M.

The applicant in this case has applied under Section 19 of the  
Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) To direct the respondents to take necessary steps to fill up the vacancies in the category of Primary Teacher, Trained Graduate Teacher (TGT) and Post Graduate Teacher (PGT) against various subject and medium of instruction through Direct Recruitment and/or from the serving employees at the earliest;
- b) To direct the respondents to produce necessary records relating to the vacancies in the category of Primary Teacher, Trained Graduate Teacher and Post Graduate Teacher existing in the

schools of CLW, CRJ before this Hon'ble Tribunal at the time of hearing.

- c) Any other order or orders as the Hon'ble Tribunal deems fit and proper.

2. In a nutshell the prayer of the applicant is as follows :

The instant OA is filed as large number of vacancies in the category of Primary Teacher, Trained Graduate Teacher (TGT) and Post Graduate Teacher (PGT) against various subjects and medium of instruction is vacant over a considerable period of time and no earnest steps has been taken by the competent authority to fill up the said vacancies of Teachers in various schools of CLW, Chittaranjan and as such students are suffering a lot as their studies are hampered due to non-availability of teachers to take classes. Applicant submitted representations ventilating his grievances but the same has not yet been considered and disposed of.

3. It is observed that some orders of the respondent authorities dated 7.2.07, 16.5.11 and 30.3.15 regarding filling up of the vacancies in the category of Teachers in different places have been placed on file, though nothing is apparent from record as to what action has been taken on such notice of the respondent authorities regarding filling up of the vacant posts of Teachers.

4. A representation dated 3.3.2016 by a number of Teachers has also been placed on record at Annexure A/3 addressed to General Manager and Chief Personnel Manager of CLW. Their prayer is set out below :

"In view of the facts and circumstances stated above it is most humbly prayed that your honour may take necessary steps to fill up the vacancies in the schools of CLW/Chittaranjan through direct recruitment and/or from the serving employees at the earliest to mitigate the hardships faced by the students of the schools."

5. While we sympathize with such demand made by the applicant Shri Abani Kumar Bera, but we are constrained to point out that in policy matters the power of the judicial review is extremely limited. The scope of judicial review has been examined by the Hon'ble Apex Court in the case of ***Ekta Shakti Foundation -vs- Govt. of NCT [AIR 2006 SC 269]*** and is set out below :

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"10. While exercising the power of judicial review of administrative action, the Court is not the appellate authority and the Constitution does not permit the Court to direct or advise the executive in matter of policy or to sermonize any matter which under the Constitution lies within the sphere of the Legislature or the executive, provided these authorities do not transgress their constitutional limits or statutory power. (See Ashif Hamid v. State of J. & K. (AIR 1989 SC 1899), Shri Sitaram Sugar Co. v. Union of India (AIR 1990 SC 1277). The scope of judicial enquiry is confined to the question whether the decision taken by the Government is against any statutory provisions or is violative of the fundamental rights of the citizens or is opposed to the provisions of the Constitution. Thus, the position is that even if the decision taken by the Government does not appear to be agreeable to the Court it cannot interfere.

11. The correctness of the reasons which prompted the Government in decision making, taking one course of action instead of another is not a matter of concern in judicial review and the Court is not the appropriate forum for such investigation.

12. The policy decision must be left to the Government as it alone can adopt which policy should be adopted after considering all the points from different angles. In matter of policy decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not shown Courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of the Government."

6. Because of such direction of Hon'ble Apex Court we cannot intervene in the matter. The matter is disposed of accordingly.

(JAYA DAS GUPTA)  
MEMBER (A)

(A.K.PATNAIK)  
MEMBER (J)

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