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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCHNo. OA. 350/1674/2017
MA. 350/930/2017

Date of Order: 08.12.2017

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

Pabitra Debnath & 134 others,
 All are Safaiwala/Labours Group
 "D" Posts, under enlisted different
 Contractors of Eastern Railway,
 Malda Division, Malda, Pin Code-
 723 102.

.....Applicants.

-versus-

1. Union of India through the General Manager, Eastern Railway, 17, N.S. Road, Fairlie Place, Kolkata - 700 001.
2. The Chief Personnel Officer, Eastern Railway, 17, N.S. Road, Fairlie Place, Kolkata - 700 001.
3. The Divisional Railway Manager, Eastern Railway, Malda Division, Malda, Pin- 732 102.
4. The Senior Divisional Personnel Officer, Eastern Railway, Malda Division, Malda- 732 102.
5. The Chairman, Ministry of Railways, Rail Bhavan, New Delhi- 110001.

.....Respondents.

For the Applicant : Mr. PC Das, Counsel
Mr. TK Biswas, Counsel

For the Respondents : Mr. AK Banerjee, Counsel



ORDER (Oral)

Per Ms. Manjula Das, Judicial Member:

By this MA. 350/00930/2017 the applicants prayed for granting permission to file the original application jointly under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987.

2. Mr. PC Das, assisted by Mr. TK Biswas, learned counsel for applicants submit that the present applicants have a common interest in the matter with same cause of action and the nature of relief is same to the original application.

Hence, as per Rules 4(5)(a) of the CAT(Procedure) Rules, 1987 permission be granted from this Court to file a joint petition.

3. Mr. AK Banerjee, learned counsel appeared on behalf of the respondents.

4. All together 135 applicants filed the original application with the same prayer in Sl. No. 8 of the original application to absorb as regular Group-D staff.

All the applicants have the common interest and common cause of action.

5. Permission is granted to move the original application jointly under Rule 4(5)(a) of the CAT(Procedure) Rules, 1987.

6. Therefore, MA stands allowed.

7. The applicants by this original application approached before this Tribunal under Section 19 of AT Act, with the following reliefs:

"8.(a) An order directing the respondents to pass similar order which was passed on 26.2.2014 and 04.12.2015 (Annexure A-4 and A-5) because present applicants are same footing applicants and further directing the respondents to give the benefits of Railway Board's Order dated 26.11.2009 (Annexure A-9 collectively) to the applicants and further directing the respondents to collect the all documents of the applicants individually and thereafter verify, absolute and complete the screening process, if the applicants are found suitable then regularize the applicants in the suitable Group-D posts;

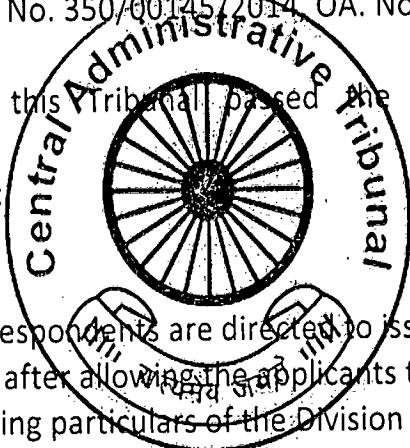
(b) An order directing the respondents to consider the Apex Court order (Annexure A-10 collectively) in favour of the applicants;

(c) An order directing the respondents to consider the representation dated 16.12.2016 (Annexure A-11) within specific period;

(d) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the CAT Procedure Rules, 1987;

(e) Pass any other or further order or orders as to this Hon'ble Tribunal may deem fit and proper;

8. Mr. PC Das, learned counsel for applicant submitted that similarly situated persons earlier approached before this Tribunal vide OA. No 350/00143/2014, OA. No. 350/00144/2014, OA. No. 350/00145/2014, OA. No. 350/00146/2014, OA. No. 350/00167/2014 where this Tribunal passed the order vide order dated 26.02.2014 as here under:


 "The respondents are directed to issue individual speaking orders after allowing the applicants to submit their certificates indicating particulars of the Division and Department and place of their working, Unit, date and period of their working, name of contractor under whom they have worked. The respondents after scrutinizing the documents so received, if required shall get the documents verified by the contractors and shall consider their claim appropriately in terms of the decisions cited by the applicants and within two months from the date of communication of the order issue necessary speaking orders in terms of our earlier directions".

9. Learned counsel for applicants submit that some other similarly situated employee i.e. Sambhu Kumar & Ors approached before this Tribunal vide OA. No. 350/01807/2015 where the Tribunal disposed of the OA vide order dated 04.12.2015 with the following order:



4. In fact, based on that order representations were made by those applicants and the Railway administration is considering it. Similar treatment might be meted out to the applicants herein. Ld. Counsel for the respondents would submit that if time is granted the respondents would file a detailed reply.

5. Taking into consideration, the innocuous prayer made by Ld. Counsel for the applicant that on par with earlier direction dated 26.2.2014 passed in five other matters, a direction might be given in this case also, we would like to issue the following direction:

The applicants are given liberty to file their individual representations enclosing their working certificates and also the judgments which they rely upon in support of their case within 15 days from the date of receipt of a copy of this order to the appropriate authority of the Railways, whereupon the said authority shall consider the same on merits within 5 months from the date of receipt of such application. We make it clear that we have not decided the matter on substantive merits."

10. According to the learned counsel the applicants are being similarly situated and they made a joint representation dated 16.12.2016 before the concerned authority with prayers for absorption /appointment in the department on regular basis. However, the respondents' authority till now did not response after passage of one year.

Mr. Das further submitted that in a similarly circumstance in I.A. No. 1/2013 under WP (C) No. 390/2012 in the case of Md. Ansar & Ors. Vs. Union of India & Ors., the Hon'ble Apex Court vide order dated 26.02.2013, disposed of the I.A. as well as writ petition by directing that the officer of the railways be specially appointed to consider the cases of the writ petitioners and if they are found to be eligible or if they satisfy the conditions concerned, they may be considered for



regularisation within six weeks from date, keeping in mind the earlier directions given by this Court.

11. Mr. PC Das, learned counsel for applicant fairly submitted that as the representation dated 16.12.2016 is pending before the authority, let the same be disposed of keeping in mind the decision of the Court as referred above.

12. On the other hand, learned counsel for respondents, Mr. AK Banerjee has no objection if the matter is sent back to the department for taking a decision at their disposal.

13. By accepting the prayer made by both the learned counsel and without going into the merits, we direct the respondents' authority more particularly the Respondent No. 1 (General Manager Eastern Railway) to dispose the representation dated 16.12.2016 within a period of 3 months from the date of receipt of this order.

14. We, further direct the Respondent No. 1 to scrutinize and verify as to whether the applicants are similarly situated with the applicants of the OA. No. 50/00143/2014, OA. No. 350/00144/2014, OA. No. 350/00145/2014, OA. No. 350/00146/2014, OA. No. 350/00167/2014 and to take a decision in accordance with law. The decision so arrived by the respondents' authority shall be communicated to the applicants forthwith by a reasoned and speaking order.

15. Liberty is however, also granted to the applicants to place this original application along with a copy of this order before the appropriate authority before whom the representation is pending, within a period of 10 days from the date of receipt of the order.

(Dr. Nandita Chatterjee)
Member (A)
pd

(Manjula Das)
Member (J)