

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A 350/1717/2017

Date of Order: 11.05.2018.

M.A/350/300/2018

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

Dr. Sujit Mallik and Ors
Versus
Eastern Railway

FOR THE APPLICANT(S): Mr. B. Nandy, counsel

: Mr. D.N Roy, counsel

FOR THE RESPONDENT(S): Mr. B.L Gangopadhyay, counsel

: Mr. M.K Bandyopadhyay, counsel

ORDER (ORAL)

Per: Ms. Bidisha Banerjee, Member (J):

Ld. counsel for both the sides were heard.

2. The applicants who were regularly appointed as medical officer under DR quota and belonging to batches of 1984-1991 are aggrieved as the respondents have assigned seniority to the adhoc promotee doctors, regularised in 1992 w.e.f 1983-89 i.e from their initial date of adhoc appointment, in terms of the decision rendered by the Patna Bench of the Central Administrative Tribunal in O.A 38 of 1995, upheld by the Hon'ble High Court, Patna and further by the Hon'ble Supreme Court, however, keeping the question of law open. The applicants are aggrieved as the respondents have proposed to prepare a combine seniority list of regularized adhoc doctors, vis-a-vis, the regular doctors directly appointed through UPSC, by depressing the seniority of the present applicants (regular doctos) and allowing regularized doctors to steal a march over and above them, which according to the applicants is against the ratio of decision of the Hon'ble Apex Court as laid down in P.P.C Rawani (Dr.) and Others -versus- Union of India and Others, reported in (2008) 15 SCC 332, particularly para 8-9 therein.

3. In the said matter, the Hon'ble Apex Court eloquently held as under:

“ seniority from the date of initial appointment meant inter se seniority of regularized doctors – This did not mean that if one regularly appointed doctor was promoted, all regularized doctors appointed earlier on ad hoc basis should also be promoted by creating supernumerary posts – Such an interpretation would lead to absurd results and give undue advantage in promotion to regularized doctors who were outside the cadre.”

4. We feel that the applicants have a genuine grievance since they are regularly appointed through UPSC from the very initial date, whereas the regularized doctors were appointed on adhoc basis on such date and regularized on a subsequent date but granted seniority w.e.f initial date of adhoc appointment by virtue of Court's order and, therefore the present applicants ought to be dealt with in terms of the decision cited (supra).

5. Ld. counsel for the respondents Mr. B.L Gangopachyay, submitted that several adhoc doctors have been granted promotion to the higher posts of higher Ad. Grade, however, no such averments figure in the reply and therefore such statements stands controverted and denied by the applicants oral submission.

6. Be that as it may, we notice that no representation has been preferred by the present applicants seeking benefits of the said decision (supra), and therefore, the respondents did not get a chance to consider their grievance in the light of the decision cited (supra).

7. In the aforesaid backdrop, we give liberty to the present applicants to prefer a comprehensive representation to the Respondent No. 2, within a period of 3 weeks from the date of receipt of a copy of this order. In the event of receipt of such representation, the appropriate competent officer of the Railway Board shall consider it in the light of the decision of P.P.C Rawani (Dr.) and Others –versus- Union of India and Others, reported in (2008) 15 SCC 332 (supra) and pass an appropriate reasoned and speaking order within 4 months

from the date of its receipt and grant appropriate benefits to the present applicants in terms of the said decision.

8. Till such time the Railways shall not publish any combined seniority list of the regularized doctors and the regularly appointed doctors in order to give promotion to the promotional post of higher adhoc grade.

9. The O.A is accordingly disposed of. M.A 350/300/18 is also allowed.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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