

O.A. No. 350/158/2018
M.A. No. 350/111/2018

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA

PARTICULARS OF THE APPLICANTS:

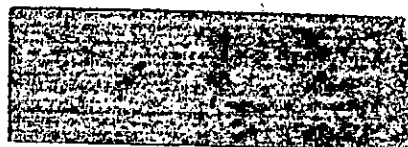
1. Dilip Kumar Ghoria, son of Ajit Kumar Ghorai, aged about 43 years, residing at Village Raidandh, Post Office - Pratap Pur, P.S. - Panskura, District - Purba Medinipur, Pin 721152.
2. Ashis Roy, son of Shri Kartic Chandra Roy, aged about 45 years, residing at Villahe - North Bhawanipur, Post Office - Kharagpur, District - Medinipur (West), Pin 721301
3. Sk. Nizam son of late Mansoor Ali, aged about 41 years, residing at MQ/3, Unit 1, Old Sattlement, Kharagpur, Post Office - Kharagpur, District - Medinipur, Pin 721301.
4. Ananda Rao Suraporeddy, son of S. Venkatarao, aged about 43 years, residing at MS/1/28 Unit D, Mstype (Post), Nimpur, District - Kharagpur, Pin 721304.
5. Sibu Mallick, son of late Bipadbhanjan Mallick, aged about 43 years, residing at Village Bhawanipur, Post Office - Kharagpur, Post Office - Kharagpur, District - Kharagpur (West), Pin 721301
6. Sambhu Mallick, sone of late Bipad bhanjan Mallick, aged about 450 years, residing at Village Bhawanipur, Post Office - Kharagpur, Disgtrict - Paschim Medinipur, Pin 721301

..... APPLICANTS

V E R S U S

- i) Union of India, through the General Manager, South Eastern Railway, Garden Reach, Kolkata 700 043

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- ii) Chief Personnel Officer, South Eastern Railway, Garden Reach Road, Kolkata 700 043
- iii) The Divisional Personnel Officer, South Railway, Kharagpur, Post Office and Police Station Kharagpur, Dist. Paschim Midnapur, Pin, 721301

.....RESPONDENTS

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No.O.A.350/158/2018
M.A. 350/111/2018

Date of order : 20.03.2018

Coram : Hon'ble Mr. A.K. Patnaik, Judicial Member

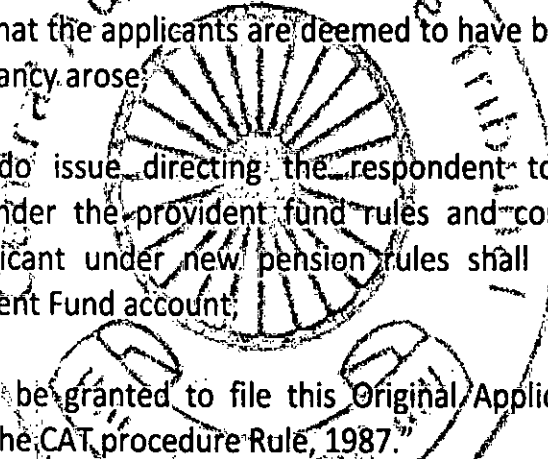
For the applicant : Mr. A. Chakraborty, counsel
Ms. P. Mondal, counsel

For the respondents : None

ORDER (ORAL)

Mr. A.K. Patnaik, J.M.

The instant O.A. has been filed by the applicants under Section 19 of the Central Administrative Tribunals Act, 1985, praying for the following reliefs:-

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- "a) Direction that the applicants are deemed to have been appointed from the date of vacancy arose.
- b) An order do issue directing the respondent to collect necessary subscription under the provident fund rules and contribution collected from the applicant under new pension rules shall be credited to the General Provident Fund account;
- c) Leave may be granted to file this Original Application jointly under Rule 4(5)(a) of the CAT procedure Rule, 1987."

The applicants have also filed an M.A.No.350/111/2018 seeking permission to move the O.A.No.350/158/2018 jointly.

2. Heard Mr. A. Chakraborty leading Ms. P. Mondal, Id. counsel for the applicant on the M.A. None appears for the respondents.

Having considered the submissions made by Id. counsel for the applicants; the M.A. is allowed.

3. So far as the O.A. is concerned, Id. counsel for the applicants submitted that in pursuance of a notification dated 02.05.1998 published by S.E. Railway,

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Kharagpur, the applicants have applied for Group 'D' posts. It is submitted by the Id. counsel for the applicants that the applicants were declared eligible to appear in the selection test for such posts and asked to appear in the Physical Endurance Test(PET) by the respondent authorities. Id. counsel for the applicants submitted that the applicants appeared in the PET and were declared successful, but due to interference of the vigilance, result of the said PET was cancelled. Thereafter, some successful candidates moved the matter before various courts praying for a direction upon the respondent authorities to quash the said order of cancellation. The applicants also challenged the said order of cancellation by filing original application before this Tribunal. It is further submitted by the Id. counsel for the applicants that subsequently in pursuance of the court's order written test was taken from the candidates who were earlier declared successful in the PET, some of them were declared suitable in the written test and were granted appointment in 2006 and some of them were given another chance to appear in the written test, declared successful in the second phase and granted appointment in 2007. Id. counsel for the applicants submitted that the applicants were appointed in 2006 and 2007 alongwith other candidates.

4. Id. counsel for the applicants submitted that main grievance of the applicants are that they were debarred from getting the benefit of Old Pension Scheme and were considered for New Pension Scheme. According to the Id. counsel for the applicants, the advertisement against the sanctioned Group 'D' posts in question was made in 1998 and the applicants were declared successful in 1999 but due to interference of the vigilance department PET test was cancelled and subsequently the applicants got appointments in the year 2006 and 2007 by virtue of court's order. Id. counsel for the applicants submitted that

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there was much delay in appointment of the applicants and they were no way responsible for the same. Ld. counsel for the applicant further submitted that as the selection process could not be completed before 2004 due to vigilance interference and the applicants were given appointments after 01.01.2004, they were debarred from exercising option for old pension scheme. It is also submitted by the ld. counsel for the applicants that the applicants made a representation to the Senior Divisional Personnel Officer, South Eastern Railway, Kharagpur on 28.08.2017(Annexure A/4) stating their grievances therein, but no reply has been received from the respondents till date. Being aggrieved with such inaction of the respondents, the applicants have approached this Tribunal seeking the aforesaid reliefs.

5. Ld. counsel for the applicants submitted that the applicants would be satisfied for the present if a direction is given to the respondent No.(ii) i.e. the Divisional Personnel Officer, South Eastern Railway, Kharagpur to consider and dispose of the representation of the applicants dated 28.08.2017 (Annexure A/4) as per rules and regulations governing the field within a specific time frame.

6. Though no notice has been given to the respondents we are of the view that it would not be prejudicial to either of the sides if a direction is given to the Respondent No.3 to consider and dispose of the representation of the applicants as per rules and regulations in force within a specific time frame.

7. Accordingly the respondent No.(ii) i.e. the Divisional Personnel Officer, South Eastern Railway, Kharagpur is directed to consider and dispose of the representation of the applicants dated 28.08.2017(Annexure A/4) as per the rules and regulations in force by passing a well reasoned order within a period of six

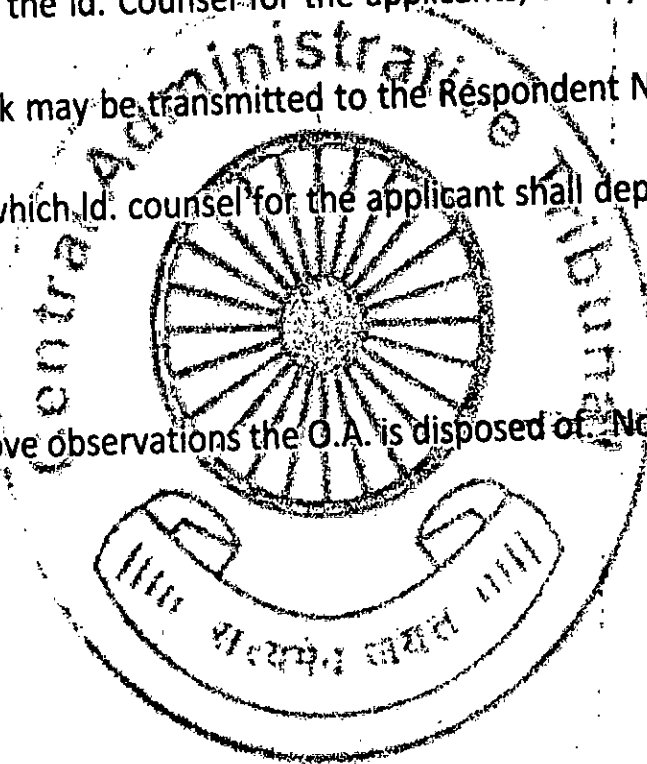
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weeks from the date of receipt of this order, if such representation is still lying pending for consideration and communicate the decision to the applicants forthwith. After such consideration, if the decision of the respondents goes in favour of the applicant, the consequential benefits may be given to the applicants within a further period of six weeks from the date of taking decision in the matter.

8. It is made clear that I have not gone into the merits of the case and all the points raised in the representation are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.

9. As prayed by the Id. Counsel for the applicants, a copy of this order along with the paper book may be transmitted to the Respondent No. (ii) by the Registry by speed post for which Id. counsel for the applicant shall deposit the cost within a week.

10. With the above observations the O.A. is disposed of. No order as to cost.



(A.K. Patnaik)
Judicial Member