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Biswanath Das vs. ...

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

234/4, A.J.C. BOSE ROAD, 2ND M.S.O. BUILDING

NIZAM PALACE COMPLEX

KOLKATA - 700 020

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE

TRIBUNAL ACT, 1985

M.A. NO. 123 OF 2017
O.A. NO. 237 OF 2017

Biswanath Das and others

Biswanath Das vs. ... Applicants

... AND ...

The Union of India & ORS.

... Respondents

DETAILS OF APPLICANT AND THE RESPONDENTS :

1. Biswanath Das, son of Late Narendra Nath Das, residing at Village & Post Office Bira Ballavpara, District 24-Parganas (North), Pin - 743234.

2. Bholanath Mandal, son of Late Nagendra Nath Mandal, residing at Village & Post Office Arbelia, District North 24-Parganas, Pin - 743437.

Biswanath Das

JAC

residing at Bipramay
Choudhury Para Road 4th
Floor, 4/D, P.O. Barasat, District 24-Parganas, Pin - 743412

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3. Sankar Bandyopadhyay, son of
Late Nandalal Bandyopadhyay, residing at Village Sainpala (Martin
Burn Road), Post Office Basirhat, North 24-Parganas, Pin - 743411

4. Sunil Sarkar, son of Late Ambika
Charan Sarkar, residing at Bipramay
APPT, Choudhury Para Road, 4th
Floor, 4/D, P.O. Barasat, District 24-
Parganas (North), Pin - 700124.

5. Kamaluddin Molla, son of

5. Pravash Pramanik, son of Late
Shyamapada Pramanik, residing at
Village & Post Office Dhaltitha via
Basirhat College, District North 24-
Parganas, Pin - 743412

6. Md. Alauddin, son of Late Md.
Nooruddin, residing at Village Rosui,
Post Office D. Chatra, District North
24-Parganas, Pin - 743247.

7. Md. Kamaluddin Molla, son of
Late Mosrof Hossain, residing at
Village Ulla, Post Office Chhota

Swarnath Das
1/10

Office Rabindranagar, Kolkata

700065

3. ~~Subhas Chandra Kundu, son of~~
and Post Office Bagdah, District
Jagilial, District 24-Parganas (North),
Pin - 743294.

4. ~~Das Chandra Kundu, son of~~
8. Achintya Kumar Nandy, son of
Late Monohar Chandra Nandy,
residing at 43, Shreeman Road, Post
Office, Rabindranagar, Kolkata -
700065.

5. ~~Prakash Pal, son of~~
9. Tarini Kanta Das, son of Late
Bhaktadas Rishi, residing at Village
and Post Office Bagdah, District 24-
Parganas (North), Pin - 743232.

10. Subhas Chandra Kundu, son of
Late Sushil Kumar Kundu, residing at
Village Sakti Nagar (Amtala), Post
Office Barasat, District 24-Parganas
(North), Pin - 700124.

11. Pran Krishna Pal, son of Late
Rajendra Nath Pal, residing at Ma
Sarada Road (Pioneer Park), Barasat,
District 24-Parganas (North), Pin -
700124.

Subhas Chandra Kundu
WAC

Aumur Deb, son of 11

Chandre Deb 23, Subhas

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12. Kalo Gopal Mitra, son of Late Promode Kumar Mitra, residing at Barisal Colony, Kutulsahi Road near Panchapally Primary School, Post Office Barasat, District 24-Parganas (North), Pin - 700124.

13. Asim Kumar Deb, son of Late Atindra Chandra Deb, 23, Subhas Pally, Post Office Nimta, Kolkata - 700049. - 711201

14. Netai Kumar Chattapadhyay, son of Late Manindra Nath Chattapadhyay, residing at Panchanantala Road, Village & Post Office Badu, Kolkata - 700124.

15. Achintya Kumar Chatterjee, son of Late Sudhir Chatterjee, residing at Kunjabehari Bhavan, Flat No.102, 1st Floor, 83, Panchanantala Road, Bally, Howrah - 711201

16. Ramesh Chandra Banerjee, son of Late Kalidas Banerjee, residing at

Baranath Das
Wd

I.T. Daak Bhawan, New

Delhi - 110 001

5 The Superintendent

West Bengal Circle

10/C, Gopalpara Road, Belghoria,

Kolkata - 700056.

The Superintendent... Applicants

versus Versus

1. The Union of India, service
through the Secretary, Department of
Posts, Ministry of Communications &
I.T., Daak Bhawan, Sansad Marg, New
Delhi - 110 001.

2. The Chief Postmaster General,
West Bengal Circle, Yogayog Bhawan,
P-36 C.R. Avenue, Kolkata - 700 012.

3. The Superintendent of Post
Offices Barasat Division, Barasat,
Kolkata - 700 124.

... Respondents

W.L.

O R D E R (Oral)

A. Order of the Court:

M.A. No. 350/123/2017 and O.A. No. 237/2017

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M.A. 123/2017 WITH O.A. 237/2017

P.N. Sharma, Ld. Counsel appearing for the respondents.

No. M.A. 350/123/2017

Date of order: 15.5.2017

O.A. 350/237/2017, dated 15.5.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative MemberFor the Applicant : Mr. S.K. Dutta, Counsel
Prayer for grant of MACP: Mr. Dutta, Mr. Maitra, Counsel

For the Respondents : Mr. P.N. Sharma, Counsel

O R D E R (Oral)A.K. Patnaik, Judicial Member:

Heard Mr. S.K. Dutta, Ld. Counsel appearing for the applicant and Mr. P.N. Sharma, Ld. Counsel appearing for the respondents.

2. This M.A. No. 237 of 2017 has been filed under Rule 4(5)(a) of CAT (Procedure) Rules, 1987 for joint prosecution.

3. On being questioned as to how 16 applicants can join together in a case for grant of MACP, Mr. Dutta submitted that there is a common cause of action. Therefore, the M.A. is allowed.

4. As per Mr. Dutta, the sum and substance of the case of the applicants are that the respondent authorities have rejected the claim of the applicants for grant of MACP benefits. The applicants made several representations on different dates praying for grant of MACP benefits which have not been replied to by the concerned respondent authorities. This O.A. has been filed praying for the following reliefs:

Vd

the applicants and by issuing a reasoned order in the light of the judgment and order passed by this Hon'ble Tribunal in O.A. No. 1152 of 2011, as affirmed upto the Hon'ble Apex Court and thereupon communicate the said decision to the applicants within a stipulated period of time." M.A. 123/2017 WITH O.A. 237/2017

- "a) An order be passed thereby directing the respondent authority to grant benefits of MACP Scheme in favour of the applicants herein at respective appropriate scales without considering the promotion to postal assistant as a financial upgradation and upon taking into account the respective length of services of the applicants in the department;
- b) An order be passed thereby directing the respondent authority to grant benefits of MACP Scheme in favour of the applicants herein at respective appropriate scales without considering the benefits given under the TBOP or BCR Scheme as promotions in the services of the applicants, as the case may be.
- c) An order be passed directing the respondent authorities concerned to forthwith consider, decide and dispose of the representations made by the applicants in this regard by giving an opportunity of hearing to the applicants and by passing a reasoned order in connection therewith in the light of the judgment and order passed by this Hon'ble Tribunal in O.A. No. 1152 of 2011, as affirmed upto the Hon'ble Apex Court and thereupon communicate the said decision to the applicants within a stipulated period of time;"

5. Mr. Dutta submitted that the claim of the applicants should have been allowed because of the fact that the judgment rendered by the Hon'ble Supreme Court in Special Leave of Appeal (C) No. 4848 /2016.

6. Mr. Dutta, Ld. Counsel for the applicant submitted that the grievance of the applicant would be more or less addressed if a specific order is passed by directing the concerned authority i.e. respondent No. 3 to dispose of the representation dated 2.6.2016 within a specific time frame.

7. Though no notice has been issued still then we think it
appropriate to dispose of this O.A. without waiting for reply by directing the respondent No. 3, that if any such representation have been preferred on 2.6.2016 and the same is still pending consideration, then it may be considered and disposed of by way of a well-reasoned order within a period of

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matter and all points are kept open for the respondents to consider the same as per the rules and regulations in force.

A copy of this order

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M.A. 123/2017 WITH O.A. 237/2017

three months from the date of receipt of a copy of this order under

undertakes to deposit necessary cost in the Registry by this week. In response to the communication to the applicant and if after such consideration, the applicant's grievance is found to be genuine, then expeditious steps may be taken within a further period of six months from the date of such consideration to extend those benefits to the applicant.

8. We make it clear that we have not gone into the merits of the matter and all points are kept open for the respondents to consider the same as per the rules and regulations in force.

(A.K. Patnaik)
Judicial Member

9. A prayed for by Mr. Dutta, a copy of this order along with paper book be transmitted to the respondent No. 3 by speed post for which Mr. Dutta undertakes to deposit necessary cost in the Registry by this week.

10. With the aforesaid observation and direction, the O.A. is disposed of.

(Jaya Das Gupta)
Administrative Member

(A.K. Patnaik)
Judicial Member

SP