

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 179 of 2018

This the 24th day of May, 2018

Hon'ble Mr. Justice V.C. Gupta, Member-J

Mohd. Tarik, aged about 38 years, S/o Sri Jaibul Hasan, R/o Village & Post Sadrauna, District Lucknow.

.....Applicant

By Advocate : Sri R.L. Mishra

Versus.

1. Union of India through its Secretary, Ministry of Railways, New Delhi
2. General Manager, Northern Railway, Baroda House, New Delhi.

.....Respondents.

By Advocate : Sri Alok Shukla for Sri A. Pathak.

O R D E R (Oral)

Heard the learned counsel for the applicant as well as learned proxy counsel for the respondents. The relief(s) claimed in this O.A. reads as under:-

- (i) *That this Hon'ble Tribunal may graciously be pleased to decide the case on merit regarding appointment of the applicant on the post of Substitute in accordance with Railway Board's circular dated 17.9.2010 contained in Annexure no.2 to this Original Application as Compilation I as directed by Hon'ble High Court, Lucknow Bench, Lucknow in the Writ petition No. 8105 (SB) of 2016 on 16.11.2017.*
- (ii) *That this Hon'ble Tribunal may graciously be pleased to issue direction to the respondents-authorities to consider and decide the application of the applicant regarding his appointment as Substitute on the Railway in accordance with the Railway Board Circular dated 17.9.2010, contained in Annexure no.2 as Compilation I to this Original Application within a stipulated time as fixed by this Hon'ble Tribunal.*
- (iii) *That any other and further relief which this Hon'ble Tribunal may deem fit and proper be awarded to the applicant in the circumstances of the case with costs."*

2. Earlier O.A. has been filed in respect of same relief having O.A. no. 114 of 2016 Dharmendra Kumar Gaur & Others Vs. Union of India & Others, which was disposed of on 1.3.2016 being barred

by time. The order dated 1.3.2016 was challenged by the applicants through Writ petition No. 8105 (SB) of 2016, which was allowed vide judgment and order dated 16.11.2017. The operative portion of the judgment and order dated 16.11.2017 passed by Hon'ble High Court in Writ petition No. 8105 (SB) of 2016 reads as under:-

“Thus, looking into the facts stated hereinabove and taking into consideration that it is well settled provision of law that if technical justice is pitted against the substantial justice, the waitage should be given to the substantial justice, the writ petition is allowed. The impugned order dated 1.3.2016 passed by the respondent no.3/Central Administrative Tribunal, Lucknow Bench, Lucknow is set-aside and Central Administrative Tribunal, Lucknow Bench, Lucknow is directed to decide the case on merits.”

3. As the Hon'ble High Court directed this Tribunal to decide the matter on merits, hence subsequent O.A. on the same grounds cannot be entertainable

4. Office is directed to put up the record of O.A. No. 114 of 2016 on 25.5.2018. The present O.A. is not maintainable and the same is accordingly dismissed. Appropriate order shall be passed on 25.5.2018 in the light of order passed by Hon'ble High Court.

5. A copy of this order be kept in O.A. No. 114 of 2016 alongwith copy of order of Hon'ble High Court passed in Writ petition No. 8105 (SB) of 2016. No costs.

(Justice V.C. Gupta)
Member-J

Girish/-