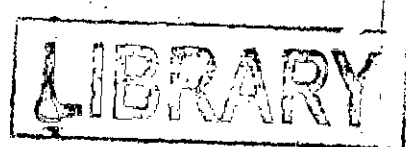


**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



No. O.A. 350/01704/2015

Date of order: 06.03.2019

**Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

1. Mr. Amitabha Das,
Son of Late Dr. M.N. Das,
Aged about 58 years,
Residing at 25, N.s. Bhaduri Sarani,
Chhoto Bazar, P.O. Midnapore,
District – Paschim Medinipur,
Pin – 721101.
2. Smt. Debashree Dam,
Daughter of Late Mr. S.K. Dam,
Aged about 44 years,
Residing at 7, Marlin Park,
SS-15, 4th Floor,
Kolkata – 700 019.
3. Mrs. Abha Sar,
Wife of Sri. Prasanta Kr. Sar,
Aged about 56 years,
Residing at Central Govt. Qrt. Type – III,
Flat No. 99 Tollygunge,
Kolkata – 700 040.
4. Mr. Biswabroto Biswas,
Son of Sri Sadabroto Biswas,
Aged about 58 years,
Residing at 84, Baburani Para Road,
P.O. Bhatpara,
Dist. – North 24 – Parganas,
Pin – 743123.
5. Mr. Radheshyam Mridha,
Son of Late Tarapada Mridha,
Aged about 55 years,
Residing at Duttapukur,
Chandrapur,
Dist. North 24 Parganas,
Pin – 743 248.
6. Dr. Debabroto Sen,
Son of Sri Ranjan Kumar Sen,
Aged about 46 years,
Residing at 7A, N.K. Chatterjee Lane,
Belghoria,

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Kolkata – 700 056.

All are working as Assistant Zoologist in the office of the
DZSI, New Alipore, Kolkata – 700 053.

... Applicants

- VERSUS -

1. Union of India,
Service through the Secretary,
Ministry of Environment,
Forest & Climate Change,
Indira Paryavaran Bhawan,
Jor-Bhag Lane,
New Delhi – 110 003.

2. Director,
Zoological Survey of India,
'M' Block, New Alipore,
Kolkata – 700 053.

... Respondents

For the Applicants

Mr. P.C. Das, Counsel
Mr. T.K. Biswas, Counsel

For the Respondents

Mr. P. Pramanik, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicants have approached the Tribunal under Section 19 of the
Administrative Tribunals Act, 1985 praying for the following relief:-

(a) An order directing the respondents to set aside the order dated 20.8.2015 (Annexure A-15) and to issue an order restraining the respondents from filling up the vacant posts of Zoologist i.e. Scientist – B & C in the Zoological Survey of India by promotion or direct appointment without giving promotions to the eligible applicants on the basis of DPC.

(b) To issue an order directing upon the respondents concerned to fill up the all Scientist – B & C posts in Zoological Survey of India, Kolkata from the merger grade with 8 to 10 years experience and having qualification of M.Sc in Zoology as per DOPT O.M. dt. 24.3.2009 (year wise DPC is mandatory);

(c) To pass an order or orders directing the respondents to publish a crystal clear seniority list as per direction of the DOPT O.M. dated 24.3.2009 and 13th September, 2012 and notification of Ministry of Environment and Forests dated 6th November, 1996 in which the eligible candidates not having qualification of B.Sc. (Zoology) on or after that day of 6th November, 1996 will not be eligible for promotion in the merger grade of Sr. Zoological Assistants.

(d) To issue direction upon the respondent authority to take action for the purpose of consideration of the case of the applicants as the departmental experience candidates as per resolution of the DOPT's O.M. dated 24.3.2009 and 13.9.2012 and MoEF notification dated November, 1996.

(e) To issue direction upon the respondents that as per Hon'ble CAT/CAL order dated 22.4.2013, Swamy's news Sl. No. 105 August, 2012 and Swamy's News page No. 77 and Sl. No. 118 September, 2012 thereof when they co-exists, if the consideration for promotion gets delayed for no fault of the employee who is found fit for promotion in that vacancy, then natural justice is granted of benefit of the promotion with retrospective effect from the date of occurrence of vacancy.

(f) To issue an order or direction for year wise promotion to the vacant posts of Scientist - B & C in Zoological Survey of India, Kolkata in favour of the applicants with all consequential benefits from the due date i.e. 1.1.06 with retrospective effect and arrear etc.

(g) To issue notice asking the respondents as to why the impugned seniority list was published on 3rd August, 2013 violating Hon'ble CAT/CAL order dated 22.4.2013 and DOPT O.M. dated 24.3.2009 and 13.9.2012.

(h) To issue Rule of Certiorari asking the respondents to transmit and produce all records including updated R/R seniority list as per direction of Hon'ble Tribunal's order in O.A. No. 1085 of 2013 dated 22.4.2013 and DOPT O.M. dated 24.3.2009 and 13.9.2012 in the merger grade only and minutes of the year-wise DPC must be submit the Hon'ble CAT/CAL at the time of hearing of this application.

(i) Leave may be granted to move this application jointly under Section 4(5)(a) of the CAT Procedure Rules, 1987.

(j) And to pass such other order or orders as to this Hon'ble Tribunal may deem fit and proper.

2. Heard Ld. Counsel for both sides examined pleadings and documents on record.

3. The submissions of the applicants as canvassed through their Ld. Counsel, is that, the applicants are Assistant Zoologists with the respondent authorities. The authorities had circulated a seniority list dated 13.8.2013 which is under challenge in the instant O.A. and the respondent authorities also did not conduct year-wise DPCs despite Tribunal's orders dated 22.4.2013. The applicants are also aggrieved on non-compliance of the DOPT's order dated 24.3.2009 and 13.9.2012 as well as procedure laid down vide DOPT's O.M. dated 11.3.2011 to abide by a model calendar for holding DPCs.

That, the applicants had earlier filed an Original Application bearing No. 350/00940/2015 which was disposed of with a direction on the respondent authorities to issue a reasoned decision on the representation of the applicants dated 29.8.2014. The respondents have issued an order dated 20.8.2015 which is also presently under challenge in the instant Original Application and the

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applicants have approached the Tribunal seeking a restraint order on the respondents for filling up the vacant posts of Zoologists i.e. Scientist B and Scientist C and also for directions to conduct year-wise DPCs to fill up the vacant posts of Scientist B and C respectively with consequent benefits w.e.f. 1.1.2006.

Ld. Counsel for the applicants further submits that the applicants would be fairly satisfied if they are given liberty to prefer a comprehensive representation before the competent respondent authority who may be directed to dispose of the said representation within a specific time frame.


4. Ld. Counsel for the respondents does not object to consideration of such representation in accordance with law.

5. Accordingly without entering into the merits of the matter and with the consent of the parties, we accord liberty to the applicants to prefer a comprehensive representation before the respondent authorities agitating their grievances within a period of three weeks from the date of receipt of a copy of this order. Once so received, the respondent No. 2, who is the Director, Zoological Survey of India, Kolkata, will thereafter examine the representations and issue a reasoned and speaking order in accordance with law within a period of 4 weeks thereafter. Decision arrived at should be communicated forthwith to the applicants.

6. With these directions, the O.A. is disposed of. No costs.

7. M.A. No. 350/00264/2016 arising out of O.A. No. 350/1704/2015, praying for interim relief, is disposed of accordingly.


(Dr. Nandita Chatterjee)
Administrative Member


(Bidisha Banerjee)
Judicial Member

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