

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00305/2018

Date of Order: This, the 05th day of September 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

Sri Tarini Charan Das
S/o Late Chanaran Das
Zonal Secretary, All India SC/ST Railway
Employees Association, N.F. Railway Zone
N.F. Railway Head Quarter, Maligaon
Guwahati, Assam, Pin – 781011.

...Applicant

By Advocates: Sri G. Uzir, Sr. Advocate, Sri M. Saikia and
Sri S. Bordoloi

-VERSUS-

1. Union of India
Represented by the Chairman
Railway Board, Rail Bhawan
Raisina Marg, New Delhi – 110001.
2. Chairman, Railway Board
Railway Bhawan, Raisina Marg
New Delhi – 110001.
3. General Manager
N.F. Railway, Maligaon
Guwahati, Assam, Pin – 781011.
4. Member Staff, Railway Bhaban
Raisina Marg, New Delhi – 110001.

5. Executive Director, Reservation/Establishment Railway Board, Railway Bhawan Raisina Marg, New Delhi – 110001.
6. Chairman, Railway Recruitment Board Station Road, Maligaon Guwahati, Pin – 781011.
7. Chairman, Railway Recruitment Cell Station Road, Maligaon Guwahati – 781011.
8. The State of Assam
Represented by the Commissioner & Secretary
To the Government of Assam
Department of Welfare of Plain Tribes
& Backward Classes, Dispur
Guwahati, Assam – 781006.

... Respondents

By Advocate: Sri H.K. Das, Railway Counsel

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

The present applicant has been filed by the applicant under Section 19 of the Administrative Tribunals Act 1985 with the following reliefs:-

“8(a) issue notice calling upon the respondents to show cause as to why the Respondent Authorities have not cancel the Employment Notice dated 10-02-2018 and not prohibit or cancel the candidature of the candidates from the outside the territory of N.F. Railway as Scheduled Caste and Scheduled Tribes candidate for the Grade ‘C’ and ‘D’ posts of

the N.F. Railway reserved for the Scheduled Castes and Scheduled Tribes; and

- (b) issue notice calling upon the respondent to transmit and certify to this Hon'ble Court all records relating to the selection and appointment of the grade 'C' and 'D' posts of N.F. Railway since 2003 till date, so that consonable justice may be done; and
- (c) after hearing the parties and after perusing the records made absolute the order commanding the Respondent Authorities to cancel the Employment Notice dated 10-02-2018 and to prohibit the candidates or cancel the candidature of the candidates from the outside the territory of N.F. Railway as Scheduled Caste and Scheduled Tribes candidate for the Grade 'C' and 'D' posts of the N.F. Railway reserved for the Scheduled Castes and Scheduled Tribes from the recruitment process; and
- (d) direction may be given to the Railway Authorities to stop the online procedure of examination for Grade IV posts; and/or
- (e) pass such other or further order or orders as Your Lordships may deem fit and proper."

2. In the present case, notice was issued upon the respondents on 11.09.2018, by making returnable within four weeks. Meanwhile, on being satisfied, interim order was passed on the same date on 11.09.2018 directing the respondents not to finalize the recruitment process on the basis of the Employment Notice dated 10.02.2018 so far the N.F. Railway Zone is concerned till the next date.

3. In the said case, written statement was filed by the respondents on 07.01.2019 wherein preliminary objection was made on two grounds:-

- (a) That the applicant is aged about 62 years old and by now he has retired and cannot have any locas standi to file a case by challenging and impugning the Employment Notice No. 2/2018 dated 10.02.2018; and
- (b) That the applicant is not 'person aggrieved' to challenge the Employment Notice No. 2/2018 dated 10.02.2018 in terms of Section 19 of the Administrative Tribunals Act 1985.

4. In view of the above, Sri H.K. Das, learned railway counsel appearing on behalf of the respondents vehemently objected to entertain the matter and prayed for dismissal of the case as not maintainable.

5. In reply to the question of maintainability, Sri G. Uzir, Sr. Advocate assisted by Sri M. Saikia, learned counsel appearing on behalf of the applicant submitted that as per bye law of the All India Scheduled Caste and Scheduled Tribes Railway Employees Association, the applicant is permitted to hold the post of Zonal Secretary and on behalf of the Association, he is having the locas standi to file O.A.

6. Sr. Counsel further submitted that the present application is not a Public Interest Litigation (PIL) and he is aggrieved with the inaction on the part of the Railway Authority as the applicant's organization i.e. All India Scheduled Caste and Scheduled Tribes Railway Employees Association is an accredited organization and accordingly, the applicant with his official capacity submitted demand for comply the reservation policy as per law, by local and regional candidates for the Group C and Group D posts. Although the authority has discussed the same in the Board's meeting but has not decided and keeping aside the same, Employment Notification has been issued in violation of the reservation policy including the established law. As such, approached this Tribunal being the applicant is aggrieved person as described under Section 19 (1) of the Administrative Tribunals Act, 1985.

7. Heard Sri G.Uzir, Sr. Advocate assisted by Sri M. Saikia, learned counsel for the applicant and Sri H.K. Das, learned railway counsel for the respondents.

8. For coming to a finding/conclusion as regard the maintainability of the present case, we are in hand the Section

19(1) of the Administrative Tribunals Act, 1985 which says as follows:-

"19. Applications to Tribunals – (1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievances."

9. In the instant case, apparently, the applicant who is Zonal Secretary and retired on superannuation from the Railway service is not an 'aggrieved person'. As such, Section 19(1) of the Administrative Tribunals Act, 1985 is not attracted and in view of that, we are of the opinion that the applicant having no locas standi to challenge the Employment Notice No. 2/2018 dated 10.02.2018 by which the Railway Authority advertised for recruitment of Group 'C' and 'D'.

10. In view of the above circumstances, we accept the prayer made by Sri H.K. Das, learned railway counsel for the respondents and held that the O.A. is not maintainable as per provisions of Section 19(1) of the Administrative Tribunals Act, 1985.

11. Accordingly, O.A. stands dismissed. No order as to costs.

12. Needless to mention that this O.A. has been dismissed not on merit but because of issue of non-maintainability of the case.

13. Consequently, interim order passed by this Tribunal on 11.09.2018 stands vacated.

(NEKKHOMANG NEHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

PB