

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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No. OA 350/00172/2016

Date of order : 27.1.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. P.K.Basu, Administrative Member

DIPANJAN GHORAI

VS

UNION OF INDIA & ORS.

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

For the respondents : Ms.G.Ray, counsel

O R D E R (ORAL)

Ms. Bidisha Banerjee, J.M.

Heard both the ld. Counsel.

2. The present OA is filed seeking the following reliefs :

- a) Speaking order dated 9.12.15 issued by Chairman, RRC, S.E. Rly., Kolkata cannot be tenable in the eye of law and therefore the same may be quashed;
- b) An order do issue directing the respondents to grant an appointment in favour of the applicant in Group 'D' post in South Eastern Railway as he was declared fit in all respects.

3. The applicant is aggrieved due to cancellation of his candidature in regard to recruitment in Group 'D' category under Employment Notice dated 29.9.12 as would be evident from Annexure A/1 to the OA. The cancellation is evidently on the ground that "Bank draft/IPO issued before the date of issue of Employment Notice and after closing date will not be accepted and such application form will be rejected and amount forfeited".

4. In order to seek a direction upon the respondents to accept the IPO and grant appointment, the applicant cited a decision rendered in an identical case in **OA 1792/15 (Gyani Prasad -vs- UOI & Ors.)** where the order would run as follows :

"The ratio scientiae behind the respondent authority's order in rejecting the candidature cannot be countenanced legally. The fact alleged in the speaking order is not capable of cutting at the root of the very candidature of the applicant. In such case, we are of the view, that the speaking order has to be set aside and a positive order has to be given for appointing the applicant to the Group 'D' post by the

respondent concerned, if he is otherwise eligible, within a period of three months from the date of receipt of a copy of this order and accordingly it is ordered."

Such order of a collateral Bench being not challenged or reversed on appeal, would bind us. That apart having encashed the IPO and having allowed the applicant to participate at different stages of the selection, we see no justification in the rejection of candidature on such flimsy ground.

5. Therefore, in view of the settled position the impugned speaking order is quashed and the OA is disposed of with a direction upon the respondents to consider grant of appropriate benefits to the present applicant, in the light of the directions given in the said OA within a period of two months from the date of receipt of the copy of this order, if he is otherwise eligible.

6. No order is passed as to costs.

✓
(P.K.BASU)
MEMBER (A)

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(BIDISHA BANERJEE)
MEMBER (J)

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