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**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA**

MA No. 535 of 2013

Date of Order: 22.09.2015

MA No. 350/00066/ 2014

MA No. 350/00067/2014

MA No. 523 of 2012

OA No. 785 of 2008

PRESENT:

THE HON'BLE MR. JUSTICE G. RAJASURIA, JUDICIAL MEMBER

THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER

1. Shri Nirmal Kumar son of Shri Hakku Yadav, aged about 27 years, Roll No. 4029311 residing at Village- Lakilakh, Post Office - Mamalkha, District-Bhagalpur, Bihar, Pin-813210.
2. Shri Ramchandra Prasad Gupta, son of Shri Mishri Lal Gupta, aged about 25 years, Roll No. 5076854, residing at Village-Kharika, Post Office Kharika, Police Station-Sonepur, District-Saran (Bihar), Pin-841010.

..... Applicants

For the Applicant : Mr. P.C.Das, Counsel.

1. Union of India service through the General Manager, Eastern Railway, Fairlie Place, Kolkata-700001.
2. The Chairman, Railway Board, Rail Bhawan, New Delhi-110002.
3. The Member Secretary, R.R.B, Kolkata, Opposite R.G.Kar Medical College & Hospital, R.G.Kar Road, Kolkata-700037.
4. The Chairman, R.R.B, Kolkata opposite R.G.Kar Medical College & Hospital, R.G.Kar Road, Kolkata-700037.

..... Respondents

For the Respondents : Mr.A.K.Guha, Counsel

ORDER

JUSTICE G.RAJASURIA, JM:

Heard both.



2. M.A. No. 535 of 2013 has been filed by the Applicants seeking the following reliefs:

....An order be issued directing the respondents authority concerned to execute the order dated 5.6.2012 in OA No. 785 of 2008;

Any other appropriate order or orders, direction or directions as this Hon'ble Tribunal may deem fit and proper."

3. MA No. 66 of 2014 has been filed by the Applicants/Respondents seeking the following reliefs:

.....to restore the instant MA No. 523 of 2012 to its original file by recalling the order dated 02.09.2013 passed by the Hon'ble Tribunal and thereby giving the applicants/respondents a chance of hearing of the MA No. 523 of 2012 on merit and pass such other order or orders as to your lordships may deem fit and proper for the ends of justice."

4. MA No. 67 of 2014 has been filed seeking the following reliefs:

....to condone the delay in filing the application for restoration by recalling of the order dated 02.09.2013 passed by the Hon'ble Tribunal in MA No. 523 of 2012, thereby giving the applicants/respondents a chance of hearing fo the restoration application on merits and to pass such other order or orders and/or further orders as to your lordships may deem fit and proper for the ends of justice."

5. The gist and kernel, pith and marrow of the case, at hand, is that earlier in OA No. 785 of 2008 this Bench passed the order dated 05.06.2012. The operative portion of it would run thus:

12. The Hon'ble High Court of Kolkata in W.P.C.T. No. 96 of 2006 in a similar matter had directed that the respondent authorities should hold a fresh inquiry after giving opportunity to the petitioners to cross examine the witnesses who assisted the Government Examiner of Questioned documents. The judgment of the High Court in W.P.C.T. No. 96 of 2006 as embodied in OA No. 901 of 2002 dated 7.12.2007 (Annexure-A/6) exactly applies to the facts of the case. We, therefore, quash the orders of the respondents dated 29.5.2008 in respect of the applicants and direct the respondents to go into the facts of such impersonation in terms of a fresh inquiry. Since they had been held guilty of impersonation, evidence on the same should be made available to the applicants and they should also be given opportunity of examining the experts.

After such fresh inquiry as directed above, the respondents should come to a decision in the matter and communicate the same to the applicants within three months from the date of issue of this order."

6. However, the grievance of the applicants/petitioners in the MA No. 535 of 2013 is that the order passed by the CAT was not complied with. The Railways happened to be the Petitioner in MA No. 66 of 2014 and MA No. 67 of 2014 and the Learned Counsel for the Railways would submit that the said order was passed in the OA ex parte and, as such, that order has to be recalled after condoning the delay in making prayer for recalling of that order.

7. Indubitably and indisputably, the order dated 5.6.2012 is not an isolated order passed. There are lot of such orders passed in similar circumstances. The Hon'ble High Court of Calcutta also passed order on the same line and that was being reiterated subsequently also. In such a case, there shall be no fruitful result if such ex parte order is recalled. It is for the Railway Respondent to comply with such order. It only mandates that due opportunity has to be given to the applicants to face their case because the contention of the railways is that there were mismatched of signatures and hand writings etc. Hence, we are of the considered view that both the MA nos. 66 and 67 of 2014 have to be dismissed and accordingly they are dismissed and direction is given to the respondent railways to comply with the earlier order within a period of four months from the date of receipt of a copy of this order.

8. Accordingly all the MAs are closed. No costs.

(Jaya Das Gupta)
Admn. Member

(Justice G.Rajasuria)
Judicial Member

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