

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. O.A. 340 of 2012

Date of order : 22.4.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

PRASANNA KR. DAS

Vs.

UNION OF INDIA & ORS. (S.E. Railway)

For the Applicant : Mr. J.N. Gupta, Counsel

For the Respondents : Mr. L.K. Chatterjee, Counsel
Mr. N.S. Alam, Counsel

O R D E R (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

Heard Ld. Counsel for the applicant and Ld. Counsel for the respondents at length.

2. The applicant who claims to be one Prasanna Kr. Das states that he is one of the applicant considered for selection by order dated 2.11.2005 and his name finds place in Srl. No. 121 in the graduated list for the post of Substitute Gr. 'D' in the Railway Department. Due to some mistake his name is mentioned as Prasanta Kumar Das instead of Prasanna Kumar Das.

3. He made an application for correction of his name on 15.3.2012 and on the same date he made a fresh application for considering his candidature for appointment in Category 'D' in the Railway Department.

4. Before moving the application for correction of name an Original

(D.K.D.)

Application having No. 935 of 2008 was filed by Shri Tulsi Das & 104 ors.

which was dismissed by this Bench of CAT by an order dated 26.3.2010.

Challenging the order passed by the Tribunal a Writ Petition bearing No.

WPCT No. 100 of 2010 was filed by Sk. Fakhruddin & ors. v. Union of India &

ors. which was decided on 27.6.2011 with the following observation:-

" In view of the submissions made by the learned Additional Solicitor General, we dispose of this matter by observing that the Railways would be free to consider the petitioners strictly in accordance with the Rules and the petitioner would be obliged to participate in the Regular recruitment process to be held for their consideration and in case they pass through physical endurance test and/or recruitment process as per the Rules, they would be absorbed as regular employee.

We only hope that the Railways would not reject any petitioner on the ground of age eligibility bar provided such candidate was within the permissible age as on the date of making of the application before the Tribunal in 2008.

This concession has been made by the Railways considering the peculiarity of this case and must not create any precedent."

5. As in this Writ Petition it was observed that benefits of this order should be extended to the petitioners only, the matter went again before the Hon'ble High Court in another Writ Petition being WPCT No. 256 of 2011 wherein the Hon'ble High Court passed an order dated 29.11.2011 which reads as under:-

" We, however, do not find any scope to differ from our earlier judgment. If we look to the judgment and order impugned, we would find that the present case also dealt with the singular recruitment process of 303 candidates, who were engaged as substitutes, being the ex-employees of the Railways.

In such view of the matter, we feel that our earlier judgment in WPCT 100 of 2010 must cover the present controversy also.

The judgment and order of the Tribunal impugned herein would stand



modified accordingly.

WPCT 256 of 2011 is disposed of without any order as to costs."

6. As such, after modification of order dated 27.6.2011 in WPCT No. 256 of 2011 as stated hereinabove, the order passed by the Hon'ble High Court in WPCT No. 100 of 2010 was extended to all the 303 empanelled candidates for the post of Substitute which was published on 2.11.2005. It has been contended that after the orders of the Hon'ble High Court appointments were given to the empanelled candidates except the applicant. The applicants who were empanelled for appointment as Substitute Gr. 'D' were 303 in number in three categories. But no appointment has been given to the applicant. The contention of Ld. Counsel for the respondents is that mere empanelment of the candidate does not amount to acquiring a right to appointment.

7. It was further submitted that after due verification of documents those who are found suitable they were given appointment as Substitute in accordance with law. So far as the case of the present applicant is concerned his name does not find place in the list of 303 graduate candidates. He moved an application for correction on 15.3.2012 i.e. after more than six years and that too without any proof of his candidature. As admitted by the Ld. Counsel for the applicant himself that his name as shown in the petition as Prasanna Kumar Das did not find any place in the list and the name of one Prasanta Kumar Das is there at Srl. No. 121 of the Graduate List, therefore, the onus lies on the applicant to establish that his name is in list of empanelled candidates



which he had failed to establish. His fresh application cannot be treated to be an empanelment and it can be dealt separately in accordance with law. However, on the strength of alleged list of empanelled candidates the applicant cannot take any advantage and to claim appointment as Substitute.

8. In view of the aforesaid circumstances, we are of the view that the petition lacks merit and is accordingly dismissed. There shall be no order as to costs.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP