

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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No. M.A. 343 of 2019
O.A. 185 of 2019

Date of order: 17.7.2019

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

SUVENDU CHOWDHURY

VS.

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

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. K. Sarkar, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

An Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(a) Speaking Order No. DCPO/(G)/CON/CC/CAT/780 dated 23.1.2019 issued by the Principal Chief Personnel Officer cannot be sustained in the eye of law and therefore the same may be quashed."

(b) An order do issue directing the respondents to publish the panel of candidates who are duly selected in the selection of promotion to the post of ACM/ACO and grant them promotion in the post of ACM/ACO at an early date.

(c) An order do issued directing the respondent to confirm the promotion of the applicant in the post of ACM/ACO."

2. An M.A. bearing No. 343 of 2019 has been filed arising out of the said O.A. praying as follows:-

" In view of above, the applicant humbly prayed that your Lordships will graciously be pleased to direct the respondents not to proceed with the notification dated 8.10.2018 till disposal the application and to pass such other order or orders, direction and/or directions as your Lordships may deem fit and proper."

The M.A. is taken up for adjudication.

3. Heard both ld. Counsel, examined documents on record.

4. The applicant had earlier approached the Tribunal in O.A. No. 1893 of 2018 praying for similar decision as issued by this Tribunal in O.A.

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No. 1522 of 2017 on 25.9.2018. The Tribunal has accorded the applicant liberty to prefer a comprehensive representation citing relevant documents including the orders passed in O.A. No. 1522 of 2017 and directed the respondent authorities to decide on the same within a specified time frame. The respondents, however, rejected the case of the applicant and, accordingly, the applicant would come up in the instant O.A. challenging the said rejection order of the authority.

The authorities have since issued another notification (Annexure M-1 to the M.A.) dated 8.10.2018 for formation of Gr. 'B' panel of ACM/ACO through LDCE against 30% vacancies - Commercial Department and to which purpose, the applicant had earlier participated in response to a notification dated 29.6.2016; the applicant now prays for staying the notification dated 8.10.2018 till disposal of the application.

In O.A. No. 185 of 2019, wherefrom this M.A. arises, the applicant has prayed for the following interim relief:-

"An interim order of do issue directing the respondents to keep one post of ACM/ACO vacant till the disposal of the application."

5. While disposing O.A. No. 1522 of 2017 on 25.9.2018, the Hon'ble Court had directed as follows:-

"7. If the applicant and other similarly placed candidates are free from any allegations and if they qualify on merit and as per Rules, the competent respondent authorities may like to confirm their selection as per law within a period of 16 weeks from the date of receipt of a copy of this order."

According to the applicant, he had also responded to the notification dated 29.6.2016 for filling up the post of ACM/ACO (Gr. 'B') through LDC against 30% quota and he was qualified in the written test and also was called for viva-voce. On account of serious procedural irregularities relating to ACR / APAR of a particular candidate, that the results of viva-voce was withheld and later the entire selection process was cancelled vide Office Order dated 25.7.2017 and the process was

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notified afresh on 8.10.2018. According to the applicant, as he is similarly placed to the applicant in O.A. No. 1522 of 2017, and, admittedly, there are no allegations against him, then he should not be subjected to a fresh examination process as notified on 8.10.2018 but should be selected on the basis of his earlier participation in written examination as well as viva-voce.

6. Ld. Counsel for the respondents as well as the representative of the respondents, who is present during hearing, admitted that there are no allegations against the instant applicant and also that he had indeed appeared in the written examination and viva-voce but his process of selection could not be confirmed as the entire process was cancelled thereafter.

7. As it is not disputed that the applicant in M.A. No. 343 of 2019 was similarly placed as applicant in O.A. No. 1522 of 2017, the orders of the Tribunal in O.A. No. 1522 of 2017 is applicable to the applicant.

Accordingly, we direct that one post of ACM/ACO (Gr. 'B') as notified on 29.6.2016 and further confirmed on 8.10.2018, be kept vacant till the disposal of O.A. No. 185 of 2019.

8. It is further directed that the respondents shall not compel the applicant to participate in the selection process notified on 8.10.2018 but will continue to process his selection as per orders in O.A. 1522 of 2017.

9. With these directions, the M.A. is disposed of. The O.A. be listed on 20.9.2019.

(Dr. Nandita Chatterjee)
Administrative Member

Bidisha Banerjee
(Bidisha Banerjee)
Judicial Member

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