

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
KOLKATA

LIBRARY

OA. 350/1074/2014

Date of order: 13.09.2019

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

Sri Krishna Bhowmick, son of Nagendra  
Chandra Bhowmick, Helper I, Engineering  
Department, under SSE- W/S, South Eastern  
Railway, Kharagpur, Pin- 721 301, residing at,  
Quarter No. 292, Unit-4, Area Development,  
P.O. Kharagpur, Dist- Paschim Medinipur, Pin-  
721301.

.....Applicant.

-versus-

1. Union of India service through the General  
Manager, South Eastern Railway, Garden  
Reach, Kolkata- 43.
2. Secretary to the Government of India,  
Ministry of Railways, Room No. 256-A, Rail  
Bhawan, Raisina Road, New Delhi- 110001.
3. The Senior Divisional Personnel Officer,  
South Eastern Railways, Kharagpur  
Division, Dist- Paschim Medinipur, Pin-  
721301.
4. The Assistant Personnel Officer-I, South  
Eastern Railway, Kharagpur, Kharagpur-  
721301.
5. The Assistant Personnel Officer-III, South  
Eastern Railway, Kharagpur, Kharagpur-  
721301.

6. The Union of India, through the Secretary, Ministry of Social Justice & Empowerment, Room No. 740, 'A' Wing, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi-110001.

7. The Deputy Chief Commissioner, Court of Chief Commissioner for Persons with Disabilities, Ministry of Social Justice and Empowerment, Department of Disability Affairs, 6, Bhagwan Dass Road, New Delhi-110001.

.....Respondents.

For the Applicant : Mr. P. Adhikari, Counsel

For the Respondents : Mr. P. Prasad, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:

Heard both.

2. Ld. Counsel for applicant submits that there have been some observations of Chief Commissioner for persons with disabilities which is as under:

"24. During the course of interaction with the parties, it is apparent that the complainant was not given extra time of 20 minutes per hour in the written examination to which he is entitled to vide O.M. No. 16-110/2003-DD.III dated 26.02.2013 of Ministry of Social Justice & Empowerment, Department of Disability Affairs, Government of India. It also transpired during the course of hearing that the Railways do not adhere to the DoPTs instructions regarding reservation in promotion to Group 'C' and 'D' posts for persons with disabilities albeit this issue does not form part of the substantive grievance of the complainant as envisaged in his original complainant dated 19.03.2013. However, the ld. Counsel for the complainant mentioned this fact vide his e-mail dated 26.03.2013. From the perusal of the question paper and corresponding answer scripts, it is seen that the complainant had attempted all the questions. There does not appear to be major discrepancy in evaluation of his answers and his placement in the Merit List. It is, however, likely that had the complainant been allowed extra time and a hassle free preparation for the examination, there could be a possibility of the complainant getting a better score than he got in the written examination. However, based on the available facts and the circumstances of this case, it is not possible to reach a conclusive assertion as to whether the complainant could have

actually made his way to the selection zone, more particularly, in view of the fact that some 5 candidates had scored higher marks than him who too could not be selected. Therefore, it would not be possible to give direction to hold a fresh examination for the complainant.

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25. In the above view of the matter, the respondent is advised as follows:
- (i) To strictly adhere to the guidelines contained in OM No. 16-110/2003-DD.III dated 26.02.2013 of Ministry of Social Justice and Empowerment, Department of Disability Affairs, Government of India.
  - (ii) To follow the DOPTs instruction with regard to reservation in promotion in 'C' and 'D' categories posts and persons with disabilities.
  - (iii) To ensure that railway staff is appropriately sensitized in respect of the needs and capabilities of persons with disabilities in an attempt to do away with any possible case of harassment to persons with disabilities.
  - (iv) To disseminate to all railways, the relevant instructions including the relevant Office Memorandum of the Ministry of Social Justice & Empowerment, Government of India and Department of Personnel & Training etc. for all the Establishments and such dissemination should be done by the Railway Board and other appropriate authorities.

3. Ld. Counsel for applicant very fairly admitted that the applicant does not claim for any consideration against 2012 notification. However, in future he will be allowed to participate.

Ld. Counsel for applicant would further contend that the respondents should be directed to act in terms of new act.

4. Ld. Counsel for respondents submits that he has no objection if the application is disposed of.

5. Therefore, the OA is disposed of with direction upon the respondents authority to strictly go by the advise tendered by the Chief Commissioner and in terms of the new Act (Physical Disability) whenever the applicant or similar candidates participate in any selection process applicable to them.

6. Accordingly, OA is disposed of. No costs.

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(Dr. Nandita Chatterjee)  
Member (A)

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(Bidisha Banerjee)  
Member (J)

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