
(2012) 03 CAL CK 0024
In the Calcutta High Court
Case No : W.P.C.T. 64 of 2012

Amal Kumar Pal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-03-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 03 CAL CK 0024

Hon'ble Judges : Subhro Kamal Mukherjee, J; Nishita Mhatre, J

Bench : Division Bench

Advocate : Nema Kumar Rakshit and Mr. Moloy Roy Chowdhury, for the Appellant; Saptarshi Roy, for the Respondent

Judgement

1. This is an application under Article 226 of the Constitution of India challenging the order dated March 17, 2010 passed by the Central Administrative Tribunal, Calcutta Bench, in Original Application No. 1043 of 2007 as also challenging the order dated February 1, 2011 passed by the said tribunal in Review Application No. 12 of 2010 filed in connection with the said original application. The writ petitioner could not be considered for promotion along with his six other batch mates, as he did not attend the interview. The writ petitioner alleged that he did not receive any notice of such screening test. However, the writ petitioner approached the Central Administrative Tribunal with an original application, which was registered as Original Application No. 892 of 2005.

2. By judgment and order dated November 9, 2005, the tribunal disposed of the said original application with the following direction :-

In the present case, although the applicant has not satisfied us regarding his representation to the respondents as well as justification of delay in the matter though the cause of action had arisen in 1991, the observations made in the case of Ujjal Kr. Ghosh (supra) have some bearing in the present matter. Thus, although the present OA is liable to be dismissed on the ground of delay and laches, it is disposed of with an observation that in view of the fact that

applicant's batch mates were all provided an opportunity of screening on the basis of respondents' guidelines contained in CPO's letter dated 29.9.83 for filling up 25% vacancies in the skilled trades from ex-ITI candidates, the respondents may consider applicant's case sympathetically by giving him an opportunity of a screening test relaxing limitation regarding age, if any. Ordered accordingly.

3. Unfortunately, the Senior Divisional Personnel Officer, South Eastern Railway, failed to appreciate the purport of the directions passed by the tribunal and, on such erroneous assumption, declined to consider the case of the writ petitioner for an opportunity of screening test relaxing limitation regarding age on the basis that the writ petitioner, allegedly, did not attend the interview held during the period of his training at Kharagpur.

4. The writ petitioner had to approach the tribunal once again. The original application filed by the writ petitioner this time was registered as Original Application No. 1043 of 2007.

5. By judgment and order dated March 17, 2010, the tribunal, in our view, rightly set aside the order of the Senior Divisional Personnel Officer and directed the authorities to secure compliance of the earlier direction of the tribunal. However, it was clarified that the writ petitioner would have to compete along with other similarly situated persons, but after granting relaxation of age.

6. The writ petitioner filed an application for review before the tribunal being Review Application No. 12 of 2010. The tribunal, however, dismissed the application for review.

7. Mr. Saptarshi Roy, learned advocate appearing for the railway administration, submits that as the writ petitioner did not participate in the interview, his case cannot be considered isolatedly.

8. There is a scope of consideration of the case of the writ petitioner isolatedly. The order passed in Original Application No. 892 of 2005 on November 9, 2005 was clarified by the tribunal by making it clear that the writ petitioner would have to compete along with similarly situated persons, but he was entitled to relaxation of age.

9. The order passed by the tribunal in Original Application No. 892 of 2005 is binding on the parties. It is not open to the railway administration to challenge the said direction of the tribunal dated November 9, 2005.

10. We do not think that there is any scope to interfere with the orders passed by the tribunal and we direct the railway authorities to consider the case of the writ petitioner in terms of the directions of the tribunal dated November 9, 2005 and March 17, 2010 within a period of three months from the date of communication of this order.

11. With the aforesaid observations, the application under Article 226 of the

Constitution of India is disposed of without, however, any order as to costs. Xerox certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the requisites.