

(2021) 03 CAT CK 0141
In the Central Administrative Tribunal
Case No : Original Application No. 665 Of 2021

Naveen

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 24-03-2021

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21
Railway Protection Act, 1957 — Section 3

Citation : (2021) 03 CAT CK 0141

Hon'ble Judges : R.N. Singh, J;Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Sharad Raghav, Manmohan Kumar Jha

Final Decision : Dismissed

Judgement

R. N. Singh, Member (J)

1. In the present OA, the applicant has challenged the notification dated 10.08.2019 (Annexure A-1) vide which final cut off mark has been indicated for various categories for the post of Railway Protection Force and Railway Protection Special Force.

2. In view of the provisions of Section 21 of the A.T. Act, 1985, Original Application is required to be filed within a year of cause of action.

3. The learned counsel for the applicant argues that the cause of action has arisen to the applicant in view of the aforesaid communication vide which the cut off marks for the said post has been notified. Admittedly, the Original Application is filed beyond the period of one year, as provided u/s 21 of the Administrative Tribunal Act, 1985. The applicant has also not filed any application seeking condonation of delay in view of the provision of Section 21 of A.T. Act, 1985. The applicant has been one of the candidates for the post of Constable in Railway Protection Force and Railway Protection Special Force. This Tribunal is not having any jurisdiction in the matter related to those Forces. In this regard, we may

refer to the judgment of Jabalpur Bench of this Tribunal dated 15.7.2019 in OA No.203/00016/2019 in the case of Smt. Lucia Tirkey vs. South East Central Railways and others, which reads as under :-

"The matter relates to compassionate appointment of the applicant, whose husband, while working as a Head Constable with the Railway Protection Force, voluntarily retired from service on medical ground.

2. Under the provisions of the Administrative Tribunal Act, 1985, members of Armed Forces are excluded from the jurisdiction of this Tribunal. Further, Section 3 of the Railway Protection Act, 1957 says that Railway Protection Force is an armed force of the Union constituted and maintained by the Central Government. Since the husband of the applicant was a uniformed employee working under the Railway Protection Force, therefore, this Tribunal has no jurisdiction to look into this matter.

3. Accordingly, the O.A is dismissed for want of jurisdiction. However, the applicant shall be at liberty to approach the appropriate forum for redressal of her grievances."

4. The learned counsel for the applicant submits that he has filed the present Original Application in view of the Order/Judgment of the Hon'ble High Court of Delhi in WP (C) No.1512/2021 in the case of Naveen Vs. UOI and Anr., which reads as under :-

"CM Appl. 4334/2021 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, present application stands disposed of.

W.P. (C) 1512/2021 & CM Appl. 4333/2021

Present writ petition has been filed challenging list of selected candidates dated 10th August 2019 issued by the respondents for the post of Constable in Railway Protection Force and Railway Protection Special Force. Petitioner also seeks directions to the respondents to issue a fresh list in consonance with the provisions for reserved categories.

Mr. Jagjit Singh, learned counsel for respondent, who appears on advance notice, states that the petitioner has an alternative effective remedy by filing an Original Application before the Central Administrative Tribunal. He also submits that the present petition is barred by laches.

At this stage, learned counsel for petitioner states that a similar writ petition being W.P. (C) 9986/2019 is pending adjudication before this Court.

However, a perusal of the paper book reveals that the petitioner has neither referred to nor relied upon any order passed by this Court in W.P.(C) 9986/2019. The petitioner has only made a bald averment that he has no other alternative effective remedy.

Consequently, the present writ petition and application are disposed of with liberty to the petitioner to avail the alternative effective remedy by filing a application/petition before the Central Administrative Tribunal. It is clarified that the rights and contentions of all parties are left open."

5. The applicant has though challenged the list of selected candidates dated 10.08.2019, however, has not chosen to implead even a single such selected candidate, even in representative capacity.

6. The learned counsel for the applicant submits in view of the fact that WP (C) No.9986/2019 is pending adjudication before the Hon'ble High Court of Delhi and the said Writ Petition deals with the issue identical to that in the present OA, the present OA may be adjourned sine die or till the disposal of the said Writ Petition No.9986/2019.

7. However, on perusal of the Order dated 05.02.2021 of the Hon'ble High Court, it is evident that the applicant has not brought on record before the Hon'ble High Court of Delhi and/or before us as to how this Tribunal is having the jurisdiction in the matter. He has also not been able to show as to how the present Original Application is within limitation as provided under Section 21 of the A.T. Act, 1985 or how the present OA will be maintainable in absence of the necessary parties. Moreover, the learned counsel for the applicant has himself argued that an identical issue is pending before the Hon'ble High Court of Delhi in WP (C) 9986/2019.

8. However, without going into the merit or any other aspect of the OA, in view of the judgment of a co-ordinate Bench of this Tribunal in Smt. Lucia Tirkey (supra), we find that the OA is not maintainable before this Tribunal for lack of jurisdiction.

9. The present OA is dismissed, accordingly. However, no order as to costs.