
(2018) 02 CAT CK 0053

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 48 Of 2018, Original Application No. 3232 Of 17

Ravi Yadav And Ors

APPELLANT

Vs

Satyam Kashyap And Ors

RESPONDENT

Date of Decision : 13-02-2018

Acts Referred:

Citation : (2018) 02 CAT CK 0053

Hon'ble Judges : Raj Vir Sharma, J;Praveen Mahajan, Member (A)

Bench : Division Bench

Advocate : Kanika Singh, Gitanjali Sharma

Final Decision : Allowed

Judgement

Raj Vir Sharma, J

1. Brief facts giving rise to MA No.48/18 are that applicant- opposite party no.1 and intervenors were candidates of Combined Graduate Level Examination, 2016 conducted by the respondent-opposite party no.2 for selection and recruitment to different categories of posts in various Ministries/Departments/Organizations of the Government of India. After the results of Tiers I, II and III Examinations were declared and other formalities were completed, respondent-opposite party no.2 published the final result of the recruitment examination and recommended the selected candidates for appointment, vide final result notice dated 5.8.2017. The intervenors and others were selected and recommended for appointment against the vacancies notified in the examination notification. The applicant was not selected. Claiming that the respondent-opposite party no.2 illegally and arbitrarily rejected his candidature in Tier III examination, vide list (Annexure A-1 to the O.A.), the applicant-opposite party no.1 filed OA No.3232 of 2017 on 13.9.2017 seeking the following reliefs:

"(i) direct the Respondent No.1 to consider the candidature of the applicant and evaluate his Tier III paper/the answer sheet and if found successful after such

consideration/evaluation, recommend the candidature of the applicant for appointment to any of the said posts as per cut offs and for the preferred posts if found eligible;

(ii) pass any such other or further order(s) as this Hon'ble Tribunal may deem fit and appropriate in favour of the Applicant; and

(iii) allow the present Application with costs, in favour of the applicant."

The applicant-opposite party no.1 also prayed for the following interim relief:

"The applicant prays that pending disposal of the present Original Application, the respondents may not issue any appointment letter under the Combined Graduate Level Exam, 2016 and/or respondents be directed to keep the preferred post under Respondent No.2 against which the applicant could be appointed in the event the applicant succeeds in the present application."

O.A.No.3232 of 2017 was placed before the coordinate Bench for considering the questions of admission and of interim relief on 14.9.2017 when the Tribunal, referring to the order passed by the Tribunal in OA No.2964 of 2017, issued notices to the respondent-opposite party nos. 2 and 3, and directed that "In the meanwhile, no appointment letters pursuant to the aforesaid examination be issued", vide order dated 14.9.2017. Ms.Geetanjali Sharma, learned counsel accepted notices on behalf of respondent-opposite party nos. 2 and 3. Counter reply to OA No.3232 of 2017 (verified by Mr.S.C.Kashyap, Under Secretary of respondent-opposite party no.2) was filed on 11.12.2017. The applicant-opposite party no.1 did not want to file rejoinder reply to the said counter reply. Thus, the pleadings in OA No.3232 of 2017 were shown to be complete. While so, the intervenors filed the present MA No.48 of 2018 praying for their impleadment as party-respondents in OA No.3232 of 2017. In MA No.48 of 2018, the intervenors have stated, inter alia, that in view of the interim order dated 14.9.2017 passed by the Tribunal in OA No.3232 of 2017, the respondent-opposite party no.2 has halted the appointment procedure, and, as a result, their appointment has been unduly delayed. Therefore, they are necessary/proper parties, and should be impleaded as party-respondents in OA No.3232 of 2017, as the interim order dated 14.9.2017 has already adversely affected them, and if any further order is passed by the Tribunal in favour of the applicant, such order will also prejudicially affect their rights.

2. No counter reply to MA No.48 of 2018 was filed by the respondent-opposite party nos. 2 and 3.

3. In his counter reply to MA No.48 of 2018, applicant-opposite party no.1 has stated, inter alia, that the intervenors are neither necessary nor proper parties to the O.A. which was filed by him challenging the illegality committed by the respondent-opposite party no.2. There is no allegation made by him against any of the selected candidates. The grievance of the intervenors regarding delay in their appointment can be redressed by the Tribunal while finally deciding

O.A.No.3232 of 2017. Their impleadment as party-respondents in OA No.3232 of 2017 will cause further delay in appointment which is likely to prejudice the rights of the applicant.

4. After having given our thoughtful consideration to the facts and circumstances of the case, and upon hearing the intervenors in person and Ms.Kanika Singh for applicant-opp.party no.1, and Ms.Gitanjali Sharma for respondent-opposite party nos. 2 and 3, we have found considerable merit in the contentions of the intervenors. Consequent to their selection and recommendation for appointment to different posts made by the respondent-opposite party no.2, the intervenors have a right to be appointed to the posts. In view of the interim order dated 14.9.2017(ibid) passed by the Tribunal, the respondent-opposite party no.2 has halted the appointment procedure and, consequently, their appointment and appointment of other selected candidates have been unduly delayed. Therefore, it is clear that the interim order dated 14.9.2017(ibid) has already prejudicially affected the rights of the intervenors as well as other selected candidates. The intervenors and other selected candidates have an interest in the subject-matter of OA No.3232 of 2017 and have also a legal right to protect their interest. Although the applicant has not challenged the selection of the intervenors and other candidates, yet, assuming for a moment that OA No.3232 of 2017 is decided in favour of the applicant, such decision is likely to upset the entire select list, and some of the selected candidates or, for that matter, some of the intervenors may not figure in the revised select list to be prepared by the respondent-opposite party no.2. Thus, the application made by the intervenors or any of the selected candidates for their impleadment as party-respondents in the O.A. deserves to be considered and allowed by the Tribunal in the interest of justice, equity and fairplay. Furthermore, perusal of the records also reveals that by filing Writ Petition before the Hon'ble High Court of Delhi, the intervenors have already challenged the order dated 23.10.2017 passed by the Tribunal in OA No.2964 of 2017 and other connected O.As. allowing the claim of the applicants therein, and dismissing the intervention applications filed by the present intervenors in the said O.A.No.2964 of 2017 and connected O.As. as infructuous. The applicants have also filed an application for vacation of the interim order dated 14.9.2017(ibid) passed in the present O.A.No.3232 of 2017, and the same is still pending before the Tribunal. In consideration of all the above, we reject the pleas of the applicant-opposite party no.1 that the intervenors are not necessary/proper parties to OA No.3232 of 2017, and that the grievance of the intervenors can be redressed by the Tribunal while finally deciding OA No.3232 of 2017.

5. In the light of what has been discussed above, we allow MA No.48 of 2018. The intervenors are impleaded as respondent nos. 3 to 7 in OA No.3232 of 2017. The Registry of the Tribunal shall effect necessary correction in the cause-title of OA No.3232 of 2017. The applicant and respondents shall serve copies of the O.A. and counter replies on intervenor-respondent nos. 3 to 7 by tomorrow. We direct the intervenor-respondent nos. 3 to 7 to file their counter reply to OA

No.3232 of 2017 by 16.2.2018 and the applicant in OA No.3232 of 2017 to file his rejoinder reply, if any, by 23.2.2018. OA No.3232 of 2017, along with other MAs filed by the intervenor-respondent nos. 3 to 7, shall be listed before appropriate Bench on 5.3.2018 for final hearing. It is hereby made clear that no request for time to file counter reply or rejoinder reply, and no request for adjournment of hearing shall be entertained, and O.A. No.3232 of 2017 and all pending MAs shall be finally heard on 5.3.2018 and decided by the Tribunal on the basis of materials available on record and after hearing oral arguments as may be advanced by the learned counsel appearing for the parties as well as by the intervenor-respondent nos. 3 to 7.

6. The Registry of the Tribunal shall communicate copies of this order to the learned counsel appearing for the parties as well as to intervenor-respondent nos.3 to 7 in course of the day.