
(2018) 02 CAT CK 0054

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 4693 Of 2017, Original Application No. 3057 Of 2017

Ravi Yadav And Ors

APPELLANT

Vs

Sumit Bhardwaj And Ors

RESPONDENT

Date of Decision : 13-02-2018

Acts Referred:

Citation : (2018) 02 CAT CK 0054

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

Bench : Division Bench

Advocate : Ajesh Luthra, Krishan Kumar

Final Decision : Allowed

Judgement

Raj Vir Sharma, J

1. Brief facts giving rise to MA No.4693/17 are that applicant- opposite party nos.1 to 3 and intervenors were candidates of Combined Graduate Level Examination, 2016 conducted by the respondent-opposite party no.5 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.5 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 were recommended for appointment against the vacancies notified in the examination notification.

The applicant-opposite party nos. 1 to 3 were not selected. Claiming that the respondent-opposite party no.5 illegally and arbitrarily rejected their candidatures in Tier III examination, vide list (Annexure A-1 to the O.A.), the applicant-opposite party nos.1 to 3 filed OA No.3057 of 2017 on 31.8.2017 seeking the following reliefs:

"a) Quash and set aside the impugned action/order of the respondents rejecting the applicants' candidature reflected in their impugned decision dated 17/08/2017 placed at Annexure A/1 to the extent they relate to the applicants;

b) Direct the respondents to evaluate the answer sheets of the applicants for Tier-3 and further consider the applicants' cases for appointment as per their merit position along with others.

c) Accord all consequential benefits.

d) Award costs of the proceedings; and

e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interest of justice in favour of the applicants."

It is pertinent to mention here that the list dated 17.8.2017 (Annexure A/1 to the O.A.) contains the names of 5047 candidates whose candidatures were shown to have been rejected by the respondent-opposite party no.5 due to various reasons. The applicant-opposite party nos.1 to 3 also prayed for the following interim relief:

"Pending decision in OA, this Hon'ble Tribunal may graciously be pleased to stay the further process of selection of CGLE-2016, by way of an ex parte ad interim order."

O.A.No.3057 of 2017 was placed before the coordinate Bench for considering the questions of admission and of interim relief on 5.9.2017 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. 4 and

5, and passed order similar to the one passed in OA No.2964/17. The relevant portion of the order passed in OA No.2964 of 2017 was to the following effect:

"In the meanwhile, no appointment letters pursuant to the aforesaid examination be issued".

Mr. Krishna Kumar, learned counsel accepted notices on behalf of respondent-opposite party nos. 4 and 5. While so, the intervenors filed MA No.4693 of 2017 praying for their impleadment as party-respondents in OA No.3057 of 2017. Counter reply to OA No.3057 of 2017 (verified by Mr.S.C.Kashyap, Under Secretary of respondent-opposite party no.5) was filed on 15.1.2018. In MA No.4693 of 2017, the intervenors have stated, inter alia, that in view of the interim order dated 5.9.2017 passed by the Tribunal in OA No.3057/17, the respondent-opposite party no.5 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.3057/17, as the interim order dated 5.9.2017 has already adversely affected them, and if any further order is passed by the Tribunal in favour of the applicants, such order will also prejudicially affect their rights.

2. No counter reply to MA No.4693/17 was filed by the applicant-opposite party nos. 1 to 3 or by the respondent-opposite party nos. 4 and 5.

3. After having given our thoughtful consideration to the facts and circumstances of the case, and upon hearing the intervenors in person and Mr.Ajesh Luthra, learned counsel appearing for applicant-opposite party nos. 1 to 3, and Mr. Krishna Kumar, learned counsel for the respondent-opposite party nos. 4 and 5, 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.5, the intervenors have a right to be appointed to the posts. In view of the interim order dated 5.9.2017(ibid) passed by the Tribunal, the respondent-opposite party no.5 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 5.9.2017(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.3057/17 and have also a legal right to protect their interest. Although the applicants have not challenged the selection of the intervenors and other candidates, yet, assuming for a moment that OA No.3057/17 is decided in favour of the applicants, 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.5. 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 5.9.2017(ibid) passed in the present O.A.No.3057 of 2017, and the same is still pending before the Tribunal. In consideration of all the above, we have no hesitation in holding that the intervenors are necessary/proper parties to OA No.3057/17, and O.A. No.3057 of 2017 should be decided in their presence also.

4. In the light of what has been discussed above, we allow MA No.4693 of 2017. The intervenors are impleaded as respondent nos. 3 to 7 in OA No.3057/17. The Registry of the Tribunal shall effect necessary correction in the cause-title of OA No.3057 2017. The applicants and respondents shall serve copies of the O.A. and counter reply 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.3057/17 by 16.2.2018 and the applicants in OA No.3057/17 to file their rejoinder reply, if any, by 23.2.2018. OA No.3057/2017, 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.3057 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 for the parties as well as by the intervenor-respondent nos. 3 to 7.

5. 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.