

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4592/2016

Badriprasad s/o Shankar Bais and others

...Versus...

Ministry of Railways, through General Manager, Central Railway, Mumbai – CST
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mrs. Ratna Singh, Advocate for petitioners
Shri P.S. Khubalkar, Advocate for respondents

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 06.12.2016

By this petition, the petitioners challenge the order of the Central Administrative Tribunal, dated 19.2.2015, dismissing the original application filed by the petitioners.

The petitioners were practicing as scouts and guides in Nagpur Division and according to the petitioners, since they were qualified for appointment in Group – C or Group – D posts against the scouts and guides quota in the year 1998, the respondents should have absorbed the petitioners in the said posts. The respondents published an advertisement in the year 2002, inviting applications for appointment in Group-D posts from the quota of scouts and guides. The petitioners applied for the said posts. The petitioners had challenged the selection

process by filing an original application in the year 2010 on the ground that the respondents ought to have applied the recruitment Rules of 1985 and 1988 instead of applying the recruitment Rules of the year 2000 for the process initiated in the year 2002. The Tribunal dismissed the original application filed by the petitioners. The petitioners have filed the instant petition challenging the said decision.

On hearing the learned Counsel for the parties and on a perusal of the order of the Central Administrative Tribunal, we find that there is no scope for interference with the said order, in exercise of the writ jurisdiction. Firstly, the Tribunal found that the original application was hopelessly time barred. The petitioners had challenged the selection process of the year 2002 in the year 2010. Mere making of representations by the petitioners from the year 2003 to 2010, according to the Tribunal, would not stop the period of limitation. The Tribunal found that the petitioners had filed a writ petition challenging the selection process and though the High Court had granted liberty to the petitioners to file the original application before the Central Administrative Tribunal in the year 2006, the original application was filed in the year 2010. The Tribunal held and rightly so that after the petitioners participated in the selection process that was conducted in pursuance of the recruitment Rules of the year 2000, the petitioners could not have challenged the selection process solely on the ground that the recruitment Rules of 2000 should not have been applied to the selection process that was initiated in the year 2002 and the recruitment Rules of 1985 and 1988 ought to have been applied. The Tribunal held and rightly

so, by referring to several decisions of the Hon'ble Supreme Court that a candidate participating in the selection process cannot turn around and challenge the selection process. The Tribunal held that since the new recruitment Rules were brought into force in the year 2000, the respondents had rightly applied the recruitment Rules of 2000 to the selection process that was initiated in the year 2002. The Tribunal held that there was no merit in the claim of the petitioners that the recruitment Rules of the year 1985 and 1988 ought to have been applied after the new recruitment Rules were brought into force in the year 2000.

We do not find any illegality whatsoever with the order of the Tribunal so as to interfere with the same, in exercise of the writ jurisdiction. The judgment, reported in *AIR 1990 Supreme Court 1984* and relied on by the Counsel for the petitioners is not relevant for deciding the issue involved in this writ petition.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE