

19-06-2021

WP.CT 40 of 2021

Item-17

Bipul Kumar Biswas

Versus

Ct-16

Union of India & Ors.

Aloke

Mr. Arka Nandi, Adv.

Mr. Bikram Banerjee, Adv.

Mr. Saikat Sutradhar, Adv.

Mr. Sudipta Dasgupta, Adv.

... for the petitioner.

Mr. Nabakumar Das, Adv.

... for the North-Frontier Railway

Mr. Arindam Banerjee, Adv.

... for the respondent

This writ petition is directed against an order passed by the learned Central Administrative Tribunal in an application under Section 19 of the Central Administrative Tribunal Act where *inter alia* the petitioner has challenged the revised normalization formula published by the Railway Recruitment Board on 14th December, 2020 for recruitment of various non-technical popular categories Graduate and Under Graduate posts published on 28th February, 2019.

The learned counsel for the petitioner submits that the approach of the Railway Board towards normalization of marks is arbitrary.

Our attention is drawn to an earlier circular of 30th October, 2007 where the Railway Board has recommended more than one written examination for normalization of marks. However, the learned counsel

for the petitioner has fairly submitted that the normalization formula published on 5th December, 2018 was not interfered with by a Coordinate Bench in a series of matters. The first matter being WPCT No. 49 of 2017 and judgment delivered on 24th April, 2020. It is submitted that the said order has been challenged by the aggrieved writ petitioner and also by the Railway Board and the Hon'ble Supreme Court is *in seisin* over the matter. The circular that has been challenged before the Tribunal is a subsequent circular by which the circular dated 5th December, 2018 was revised. The ground of challenge by the present petitioner is almost akin to the other being thrown by the writ petitioner in the earlier proceedings. However, it has been submitted before us that the mode and manner of examination is such that for evaluation of the answers no human intervention is necessary and accordingly it is imperative that the Railway Board should follow the circular of 30th October, 2007 by holding a 2nd stage written examination instead of applying the revised normalization formula.

We have perused the order under challenge. We find that the learned Tribunal has taken into consideration the order passed in the earlier proceedings and has observed that the applicant may participate in the selection in question without prejudice to his rights and contentions in the pending

matter. We are of the view that the Tribunal was justified in making the said observation, as the full facts are required to be disclosed by an affidavit by the Railway Board. It would not be prudent for us at this stage to interfere with the earlier decision of the Railway Board as the full facts are not before us. Moreover, we feel that the Tribunal upon completion of pleadings should decide the said issue. At the same time we must also observe that it raises an important issue which needs to be resolved as expeditiously as possible. We are of the view that the interest of the applicant has been adequately protected by the order by the Tribunal.

In view of the pandemic situation the selection process would not be over shortly. Once the selection process proceeds to a considerable extent after the written examination is over and if in the meantime the Tribunal is unable to decide the matter on merits, it would be open for the writ petitioner to approach the Tribunal for an interim order, if so advised.

The Railway Recruitment Board shall file affidavit within two weeks from date upon prior service to Mr. Bikram Banerjee, learned counsel representing the writ petitioner. Reply, if any, shall be filed within two weeks thereafter.

The matter shall be immediately mentioned after completion of pleadings before the learned Tribunal.

The aforesaid direction as to completion of pleadings is peremptory. In the event the Railway Board fails to file the affidavit within two weeks from date, it would be open for the writ petitioner to approach the Tribunal with a prayer for fixing the matter at the earliest

It is made clear that we have not gone into the merits of the case and the Tribunal should decide the matter being uninfluenced by any observation made by us in this order.

WPCT 40 of 2021 is accordingly disposed of.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)