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20.09.2021
TN

W.P.C.T. No. 145 of 2010
IA No: CAN 1 of 2020

(Via video conference)

Sri Dipankar Ganguly and others
Vs.
Union of India and others

Mr. Sudip Krishna Dutta,
Mr. Ayan Banerjee,
Ms. Debasree Dhamali

.... for the petitioners

Mr. Partha Ghosh,
Mr. Avinash Kankani

.... for the respondent nos.1 to 5

In view of change of circumstances as indicated in CAN 1 of 2020, the short point now involved in the writ petition is, whether the petitioners are entitled to be regularized, in view of other persons standing on a similar footing having been regularized by virtue of an order dated February 3, 2015 passed by the Hon'ble Supreme Court in Special Leave to Appeal (C) No.31627 of 2011.

Learned counsel for the petitioners fairly contends that although the Supreme Court ultimately turned down on merits the challenge of another set of *ad hoc* employees to the review of the panel, the relief as

indicated above, was given to the petitioners in the said SLP.

Accordingly, it is argued, in view of the Article 14 of the Constitution of India being violated in the event the petitioners are also not considered, being on similar footing as the petitioners in Special Leave to Appeal (C) No.31627 of 2011, learned counsel prays for regularization of the present petitioners as well.

Learned counsel appearing for the Union, in his usual fairness, submits that, otherwise there was no difficulty in accommodating the present petitioners, apart from the fact that the Supreme Court categorically affirmed, on merits, the cancellation of the empanelment, on the basis of which the present petitioners claimed regularization; due to which, no right has accrued in favour of the petitioners to that effect.

That apart, it is contended that the observation made by the Supreme Court in directing regularization of the petitioners in the said SLP, was passed under Article 142 of the Constitution of India and, as such, has no binding effect on that score.

Even agreeing fully with learned counsel for the Union that the above observation was recorded by the Supreme Court pursuant to its powers under Article 142 of the Constitution of India in the SLP, the end result remains that other persons, standing exactly on a similar

footing as the petitioners, subject to seniority, have been granted a relief, of which the petitioners stand deprived. This is a square case of violation of Article 14 of the Constitution of India. Although no specific legal right has accrued in favour of the present petitioners by virtue of the order of the Supreme Court, the petitioners have a fundamental right of equality, under Article 14 of the Constitution of India, to be treated at par with equals.

In such view of the matter, W.P.C.T. No.145 of 2010, along with CAN 1 of 2020, are disposed of by directing the respondents to regularize the *ad hoc* appointment of the present petitioners from September 5, 2017, subject to the seniority that has been fixed for their respective cadres.

The parties shall act on the communication of the learned Advocates, accompanied by server copies, of this order, without insisting upon prior production of a certified copy thereof.

(Sabyasachi Bhattacharyya, J.)

(Jay Sengupta, J.)