

24.03.2022

WPCT 16 of 2022

Court : 04
Item : PB-02
Matter : WPCT
Status : DISMISSED
Transcriber: nandy

Union of India & Ors.
Vs.
Subhankar Sarkar & Anr.

Mr. Sanajit Kumar Ghosh, Advocate
Mr. Madhusudan Mukhopadhyay, Advocate
.....for the Petitioner/UOI
Mr. Ujjal Roy, Advocate
Mr. Arpa Chakraborty, Advocate
.....for the Respondents

The Union of India has filed the instant writ-petition challenging the order dated September 23, 2021 passed by the Central Administrative Tribunal in O.A. 1335 of 2014 by which a direction was passed upon the concerned authority to make a verification and in the event the respondent no. 1 is found entitled in terms of the Employment Notice being E.N.0110, an appropriate order shall be passed within a specified period.

The dispute pertains to the recruitment process initiated on the basis of an employment notice being E.N.0110 published on December 14, 2010. The aforesaid notification was issued by the Railway Recruitment Cell inviting applications from the aspirants to fill up the posts indicated therein. Pursuant to such notification the respondent no. 1 offered his candidature and undisputedly he was declared successful for the

purpose of verification of the documents so that the further course of action can be taken. Initially, the respondent no. 1 was directed to produce the original documents on November 24, 2012 but he could not produce the same. There was no grievance raised for such lapses but the ray of hope was resurrected when a letter dated March 26, 2013 was issued by the Senior Personnel Officer, Railway Recruitment Cell, Eastern Railway inviting the petitioner to attend the Railway Recruitment Cell on April 13, 2013 for production and verification of the original documents. The genesis of the said letter can be seen from the contents thereof that such opportunity was provided extending the natural justice and to bring fairness and transparency in the entire recruitment process.

Despite such production of the original documents and having verified, no further steps were taken which constrained the petitioner to move the Central Administrative Tribunal for direction upon the respondents to verify the documents for the purpose of recruitment at Group-D post. The plea was taken by the authority before the Tribunal that the person who issued the said letter dated March 26, 2013 was not competent and/or authorized to issue the same.

There was no document forthcoming before the Tribunal in support of the aforesaid contention. Admittedly the respondent no. 1 produced the original certificates on April 13, 2013 but thereafter further course of action has not been taken or adopted. In the course of hearing, learned Advocate for the petitioner submits that the life-span of the panel was up to April 26, 2016 and, therefore, no further appointment can be made on the basis of the aforesaid recruitment process. It is further submitted that the span of the said panel cannot be extended if it receives natural death.

A query was raised on the last occasion whether any appointment has been made by the petitioner-authority after expiry of the panel as contended before us.

Our attention is drawn to a letter dated March 13, 2020 issued by the petitioner-authority wherein the appointment was given to one Mridul Kumar Das who was also found successful pursuant to the Employment Notice being E.N.0110. It is thus apparent from the aforesaid fact that the story of expiry of the panel way back in 2016 is unfounded and incorrect as the petitioner-authority proceeded to give appointment, may be on the teeth of an order of

the Court. The dispute hinges on the authority of the Senior Personnel Officer/Recruitment to issue a letter dated March 26, 2013 inviting the respondent no. 1 to produce the original documents on April 13, 2013. At the time when such letter was issued the panel did not expire and it is because of the pendency of the matter before the Tribunal such plea has been projected which in our opinion cannot be available. The petitioner-authority wanted to rely upon certain guidelines/ norms pertaining to the selection process and the paraphernalia to be followed in this regard. The authority mentioned therein has been entrusted to oversee the selection process and we also find therefrom that the power can also be delegated. In a close proximity of time, when the first date of verification of the document was fixed and letter was issued extending the period of verification of the original documents by the concerned officer but till date no step has been taken against such erring officer.

We do not find any ambiguity in the authority and power of the said Officer to fix another date for verification of the original documents obviously to get the best potential which was found in the recruitment examination and not to fall back on the technicalities. The entire exercise was undertaken during the life-

span of the panel and, therefore, it cannot be said that causing of such letter extending the life of the panel is beyond the competence of the concerned Officer. When the technicalities are pitted against the substantial justice, the latter should prevail. The Tribunal found that the objection put forth by the petitioner-authority is not supported by any convincing materials and directed the verification of the documents and further steps to be taken if the respondent no. 1 is found entitled.

We thus do not find any illegality and/or infirmity in the order of the Tribunal warranting interference therewith.

Accordingly the writ-petition fails. **WPCT 16 of 2022 is dismissed.** No order as to costs.

However, we find that the timeline given in the order of the Tribunal has elapsed and if not extended, may invite serious consequences against petitioner-authority and, therefore, we extended the time by two months.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

