

01 25.07.22

Ct. No. 04

Akd

(Mentioned)

WP.CT. 58 of 2009

**Sri Nripen Singha
Vs.
Union of India & Ors.**

**Mr. Subir Sanyal,
Mr. Arunava Banerjee,
Ms. Mamata Dutta.
... for the petitioner.**

**Mr. Pulakesh Bajpayee,
Ms. Rama Chakraborty.
... for the Union of India.**

The instant matter is pending in the docket of the Court since 2009, even after the writ petitioner failed to bring any convincing material justifying the delay in disposal of the writ petition.

The Tribunal was approached for consideration of the representation when the name of the writ petitioner, though found place in the list of the successful candidates, but later on was removed therefrom along with two other persons. The Tribunal proceeded to dispose of the application passing an innocuous order directing the Secretary, Railway Board, to consider the said representation and decide the same within a specified time.

The petitioner approached this Court by filing the instant writ petition assailing the aforesaid order on the ground that the petitioner ought to have been given an appointment and for passing a direction upon the said authority for consideration of the representation which would not yield any fruitful result.

However, when the matter was taken up on the last occasion and after noticing the scope of interference in the instant writ petition, we invited the

attention of the respondents to make submission on such core issue.

Our attention is drawn to the documents produced by the parties touching upon impersonification of the writ petitioner in participating in the selection process. The documents were handed over to the learned Advocate on record of the petitioner on the last occasion and the matter was adjourned to be listed today in presence of the writ petitioner.

It appears from the aforesaid documents that certain doubts were raised on the credential of certain candidates, who participated in the examinations and were within the zone of successful candidates. The moment such doubts were raised all such candidates were put under the scrutiny and, in fact, the Fingerprint Expert was appointed to verify the authenticity and genuinity of the Thumb Impression put at the attendance sheet as well as the answer sheet. The petitioner was put on the same pedestal with that of the two other candidates and raised further grievance before us that those two candidates have been appointed sparring the petitioner and such action tantamount to discriminatory action on the part of the authority.

The opinion of the Fingerprint Expert would reveal that the Thumb Impression put on the attendance sheet as well as the answer sheet of the petitioner does not tally with the admitted Thumb Impression and, therefore, the authority had decided not to include the petitioner in the successful list of the participating candidates.

It is a sordid state of affairs that in a public employment where somebody else appeared impersonating himself as the candidate and secured the job. It is like a cancer, which has corroded the

society and should not be dealt with any kind of leniency. A person who is otherwise meritorious is securing the job of another having ramification in the candidature of the other meritorious candidates than the said person and, therefore, the Court cannot remain as mute spectator in such situation.

Mr. Sanyal sought to urge before us that there may be a possibility that the Thumb Impression put on the attendance sheet or the answer sheet is not lucid and/or clear to form an opinion by the Expert and, therefore, merely on the basis of doubt one should not be penalized.

We are unable to accept the aforesaid submission for the simple reason that the documents produced before us would reveal the cases where the Expert did not find clarity in the Thumb Impression capable of being compared with the admitted one, he opined that he is unable to form any opinion. So far as the writ petitioner is concerned, the Expert has opined that the Thumb Impression was clear, lucid and there is no difficulty in examining the same and forming an opinion by comparing with the admitted Thumb Impression.

Such being the position, we do not think that merely on the basis of the aforesaid submission the matter should roll in the domain of the authorities as directed by the Tribunal.

In view of the findings made hereinbefore and the startling facts unearthed during the hearing of the writ petition, we do not think that the petitioner deserves any order even an order for consideration of the representation as directed by the Tribunal.

The order of the tribunal is set aside.

However, the tribunal application is dismissed and the authority is not obliged to consider the representation, which would be treated to have been

rejected for all time to come.

Though it is a fit case for imposition of costs, as such litigant should not be encouraged for frivolous litigation, yet bearing in mind he is aspiring for a job we do not intend to impose any costs.

The writ petition is thus disposed of.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)