

18.02.2022

WPCT 89 of 2021

Court : 04
Item : 52
Matter : **WPCT**
Status : DISPOSED OF
Transcriber: nandy

Prasanna Kumar Das & Ors.
Vs.
The Union of India & Ors.

Mr. Srikant Kumar Mahapatra, Advocate
Mr. Sudipto Ghosh, Advocate

.....for the Appellants

Mr. Mukesh Kumar Gupta, Advocate

.....for the Respondent

The application filed by the petitioner before the Central Administrative Tribunal is solely on the ground that despite having filed a representation before the concerned authorities in terms of the liberty granted by the Apex Court, no offer for appointment is received and, therefore, the authority has, in fact, acted contrary to the leave/liberty granted by the Supreme Court.

The matter pertains to appointment of substitutes in Group-D posts. Applications were invited way back in the year 2005 and it is a categorical case of the petitioner that he applied and, in fact, was shown in the panel but there was a mistake in his first name i.e. instead of Prasanna Kumar Das the name Prasanta Kumar Das was appearing therein.

According to the petitioner, the same was a typographical and ministerial mistake committed at the behest of the railway authority and the same should have been corrected. However, the railway authority banked upon their initial panel and did not

consider the case of the petitioner. The matter subsequently rolled from Tribunal to High Court and ultimately to the Supreme Court in a Special Leave Petition (Civil) Diary No. 13693 of 2018. According to the petitioner, though the name of the father and other antecedents were correctly shown in the said panel but his first name has been wrongly typed and, therefore, the authorities could not have taken a rigid stand in this regard. The Apex Court granted liberty to the petitioner to make a representation before the railway authority within one month from the date and the railway authority was directed to take a decision within three months from the date of filing of such representation.

Curiously enough by a speaking order the railway not only took the stand that representation was not made within the time stipulated but rejected the said application as engagement of substitutes have been deprecated and discontinued. Challenging the said speaking order the petitioner approached the Tribunal but the Tribunal instead of going into the merit proceeded to dismiss the application on the ground that no representation was filed by the petitioner in terms of the liberty granted by the Supreme Court.

Our attention is drawn to the representation dated May 21, 2018 annexed at page 122 of the writ-petition. We could see the seal on the left hand side bottom of the first page and, therefore, we do not find

any justification either in the stand of the authority or the Tribunal that the application was not made by the petitioner within the stipulated time in terms of the liberty granted by the Supreme Court.

The moment the Court is satisfied that such application is made, the order of the Tribunal cannot be sustained having passed solely on the fact that the representation was not made by the petitioner.

The order impugned is set aside.

The matter is remanded to the Tribunal for reconsideration.

It is expected that the Tribunal would make endeavour to dispose of the tribunal application within six weeks from the date of communication of this order after affording an opportunity of hearing to the parties or their concerned counsel in accordance with law.

The appeal being **WPCT 89 of 2021** is accordingly **disposed of**. No order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)

