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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decision delivered on: 06.04.2022*

+ **LPA 383/2019, CM Nos.26751/2019 & 6320/2021**

CIVIL SERVICES OFFICERS INSTITUTE (CSOI) Appellant
Through: Mr Anshuman Sharma, Adv.

versus

HARI OM MARATHA & ANR Respondents
Through: Ms Nupur Sharma, Adv. for R-1.
Mr Vikram Jetley, CGSC with Ms
Shreya Jetly, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MS. JUSTICE POONAM A. BAMBA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. This appeal is directed against the judgment of the learned single judge dated 14.02.2019, passed in W.P.(C.) No.2690/2017.
2. The respondent no.1 had approached the writ court with the grievance that his application for membership was rejected by the appellant i.e., Civil Services Officers Institute [in short "CSOI"].
 - 2.1. The record shows that the decision taken with regard to the rejection of respondent no.1's application for membership was communicated to him, via letter dated 10.02.2017, only upon recourse being taken to the RTI route.
3. Besides this, in the writ petition, respondent no.1 had sought other reliefs as well. These prayers were for the issuance of a *mandamus* to CSOI to grant membership to respondent no.1. A direction was also sought for



grant of compensation for harassment caused by CSOI on account of the fact that no cogent response was given to respondent no.1's application for grant of membership for nearly five [5] years,

4. The learned Single Judge, while disposing of the writ petition, has issued the following operative directions, which are contained in the paragraph 22 of the impugned judgment:

"22. In view of the above, the petition is allowed with costs quantified at Rs.25,000/-. The CSOI shall consider the petitioner's application for membership to CSOI., The CSOI shall also pay the costs as awarded to the petitioner within a period of two weeks from today. All pending applications stand disposed of."

4.1. As would be evident from the paragraph extracted above, all that the learned Single Judge has directed the CSOI to do, is to, consider respondent no. 1's application for membership.

4.2. In addition, costs of Rs 25000/- have also been awarded to respondent no.1, which were payable by the CSOI, within two weeks from the date of the judgment.

4.3. Mr Anshuman Sharma, who appears on behalf of the CSOI, states that the cost has been paid.

5. The record shows that respondent no.1, at the relevant time, was a judicial member of the Income Tax Appellate Tribunal [in short, 'the Tribunal'].

5.1. Since respondent no.1's application for membership to CSOI did not receive a response, as noted above, he had to take recourse to the RTI route.

5.2. Ultimately, when everything failed, inasmuch as respondent no.1 could not get CSOI to grant him the membership, he moved the writ court.

5.3. The CSOI [original respondent no.2] resisted the writ petition on various grounds, including the ground that respondent no.1 was not eligible



for grant of membership. In this regard, the relevant part of the rule stands extracted in paragraph 10 of the impugned judgment. For the sake of convenience, the said part of the rules is extracted hereafter:

"Membership shall be open to the serving and retired officers of the grade of Deputy Secretary to the Government of India and above, from all India Services and Group "A" officers of equivalent status working under the Central Government and those on deputation to PSUs and autonomous institutions located in Delhi subject to approval of the governing council/Executive Committee. The membership for the executives of Public Sector undertaking shall be subject to the approval of the Governing Council. "

6. The respondent no.1, it appears, contended before the learned Single judge that he was a Group 'A' officer, and, therefore, was eligible.

6.1. The CSOI, on the other hand, it appears, took the stand that only those Group 'A' officers were eligible for grant of membership, who belonged to the All India Services. It was, therefore, the contention of the CSOI that since the respondent was a Group 'A' officer holding the post of a judicial member in the Tribunal, he was not eligible.

6.2. The learned Single Judge, while expressing his doubts as to whether such distinction could be drawn, did not take it further.

7. We may only indicate that among the categories which are considered eligible, is the category comprising "Executives of Public Sector Undertakings".

7.1. Concededly, the executives of Public Sector Undertakings (PSUs) are not personnel belonging to the All India Services.

7.2. There is something to be said, as to whether judicial members, who are appointed to the Tribunals, can be excluded, when executives of PSUs are eligible for membership of CSOI. This is an aspect which perhaps, did not come to the fore with the specificity with which it is adverted to above,



and, therefore, in appeal, it cannot be examined by us.

7.3. Suffice it to say that the learned single judge did note in paragraph 19 of the impugned judgment that despite the CSOI's stand that judicial members were not eligible, it had in the past admitted several persons as members, who stood appointed to the Tribunal. Qua this, the explanation given on behalf of the CSOI was, that this was an inadvertent mistake.

7.3(a) This stand of the CSOI did not impress the learned single judge, and it does not impress us either.

8. We may indicate that, during the course of the arguments, Ms Nupur Sharma, learned counsel for respondent no.1, has placed before us a list of the judicial and administrative members belonging to the Tribunal, who have been granted membership of CSOI, both before and after 2012 i.e., the year when respondent no. 1 had applied for membership to CSOI.

8.1. The record, as placed before us, shows that the list is appended on page 186 of the case file, and is marked as Annexure-A/3.

9. Given the aforesaid position, we dispose of the above-captioned appeal with a direction to the CSOI to consider the application of respondent no.1, as directed by the learned single judge.

9.1 A decision in that behalf will be taken, within eight weeks from the date of receipt of a copy of this judgment.

9.2. While taking a decision, the CSOI will deal with all those cases (which have been referred to by respondent no.1) in the list appended on page 186 of the case file, and marked, as indicated above, as Annexure A/3.

9.2(a) The CSOI will carefully scrutinize those cases, if the position taken by respondent no.1 is correct, and it would give reasons as to why those persons were granted membership. To our minds, consideration of respondent no.1's application, as directed by the learned Single Judge, can



have no other meaning.

9.3. Accordingly, a speaking order will be passed by CSOI and a copy of the same will be served upon respondent no.1. In case, respondent no. 1 is aggrieved by the decision taken by the CSOI, it will have the liberty to take recourse to an appropriate remedy, as per law.

10. The appeal is disposed of in the aforesaid terms.

11. Consequently, pending applications shall stand closed.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

APRIL 6, 2022/aj

[Click here to check corrigendum, if any](#)