

05     25.01.23

Ct. No. 04

Akd

**WP.CT. 37 of 2022**

**Balaram Sardar  
Vs.  
Union of India & Ors.**

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**Mr. Mukteswar Maity,  
Ms. Shikha P. Chowdhury.  
... for the petitioner.  
Mr. Dipankar Debnath,  
Mr. Subrata Santra.  
... for the U.O.I.**

The persons, namely Sulendra and the present petitioner filed an application before the Central Administrative Tribunal being OA 1187 of 2019 seeking a direction upon the respondent authorities to consider the case of regularization / absorption of the applicants therein and also to set aside and cancel the order dated 5<sup>th</sup> September, 2018.

It appears from the record that prior to the said tribunal application the Tribunal was approached by the aforesaid applicants raising several grievances including that the representation made before the authority was not attended to and the aforesaid tribunal application was disposed of directing the authorities to pass a speaking order on the aforesaid representation.

By an order dated 5<sup>th</sup> September, 2018 the Senior Divisional Personnel Officer, Eastern Railway, Sealdah, the respondent no. 3 therein, rejected the prayer for regularization of their appointments on the score that the school leaving certificate submitted by Sulendra could not be verified, as the issuing school namely Netaji Subhash Vidyaly at 12A, Bechulal Road, Kolkate-14 was not found by the Welfare Inspector during verification. So far as the present petitioner is concerned, the claim was rejected on the basis of the verification report submitted by the

District Magistrate, North 24-Parganas to the effect that the present petitioner was not a bona fide student of the Central Convent High School, MG Road, Khardah.

The bare perusal of the reasons assigned in the speaking order does not inculcate any sense that the authorities have acted whimsically or contrary to law. However, after perusing the report of the District Magistrate, 24-Parganas (North) which has been reflected in the speaking order passed by the respondent no. 3 in the tribunal application, we feel that the matter ought to have been considered in proper perspective and not on the ipsi dixit of the said verification report.

Sulendra, the joint applicant before the Tribunal, has not filed the instant writ petition. The present petitioner has challenged the order of the Tribunal dismissing the tribunal application relying on the report of the District Magistrate, 24-Parganas (North) and declining to interfere with the speaking order dated 5<sup>th</sup> September, 2018.

The facts discerned from the respective stands are more or less undisputed. It was not a case that the authorities or the Tribunal could find out that the petitioner submitted the certificate issued by the Central Convent High School, MG Road, Khardah depicting the date of birth recorded in the admission register is not existent. Therefore, it can be safely said that the case of the petitioner is different to the case of the other applicants namely Sulendra, who was found disqualified because of the non-existence of the school, which purportedly issued the certificate.

The existence of Central Convent High School, MG Road, Khardah is not disputed and the dispute hinges on the date of birth reflected in the certificate

submitted by the writ petitioner dated 26<sup>th</sup> March, 2019 and the confidential report submitted by the Headmaster of the said school to the Divisional Personnel Officer. So far as the later certificate is concerned, it clearly and explicitly contained the date of birth as 5<sup>th</sup> February, 1962 with further certification that the writ petitioner was a bona fide student of the said school and was, in fact, promoted to Class-IX. The confidential report, which is relied upon by the District Magistrate, North 24-Parganas contained the date of birth in handwriting and the manner in which the numerical number “2” is written therein creates a confusion and ambiguity. The aforesaid numerical number was read and understood by the said authority namely District Magistrate, North 24-Parganas as numerical no. “8” instead of “2”.

There is symmetry in the date of birth in both the certificates and no confusion could be perceived therefrom. The report of the District Magistrate, North 24-Parganas annexed with the affidavit-in-opposition filed by the respondents would proceed simpliciter on the fact that since there is a mismatch in the date of birth as verified, it raises a doubt on the claim of the writ petitioner that he was a bona fide student of the said school.

Since we do not find any discrepancy from the reading of the aforesaid certificates in relation to the date of birth, the order of the Tribunal cannot be sustained so also the speaking order of the respondent no. 3 dated 5<sup>th</sup> September, 2018. We are informed that the similarly circumstanced persons have been absorbed and their services have been regularized by the authority under the scheme and, therefore, considering equality being the hallmark of the Constitutional ethos, the petitioner cannot be

treated differently. Our attention is drawn to Office Order No. E-21/MED/32/2022 dated 3<sup>rd</sup> March, 2022 in respect of a person, namely Narayan Chandra Ghosh, who was absorbed and his service was regularized on 17<sup>th</sup> December, 2021.

We, therefore, direct the authorities to pass an appropriate order in the light of the aforesaid Office Order dated 3<sup>rd</sup> March, 2022 and extend the same benefits to the writ petitioner with effect from the date from which the similarly circumstanced person, namely Narayan Chandra Ghosh, has been provided.

With the above observations, the writ petition is disposed of.

There will be no order as to costs.

**(Harish Tandon, J.)**

**(Prasenjit Biswas, J.)**