

WPA 18958 of 2023**Lakhan Kumar Shaw @ Verma****Vs.****Union of India & Ors.**

Mr. Debasish Kundu

...for the petitioner

Mr. Sanajit Kumar Ghosh

.....for the respondent

The grievance of the petitioner is that despite the fact that there is a scheme for appointment of Commission Vendors, the petitioner's representation dated February 9, 2019 made by the Divisional Railway Manager, Eastern Railway, Howrah division for being absorbed as a Commission Vendor, was not considered. By an order dated January 31, 2019 passed in WP 17037(W) of 2018 by a Co-ordinate Bench, the representation of the petitioner was directed to be considered. Such representation was considered by the Senior Divisional Commercial Manager, Eastern Railway, Howrah on January 27, 2023. In the impugned order it has been recorded that the petitioner's case cannot be considered for absorption since the petitioner is not covered by the scheme envisaged by the railway board's letter dated December 1, 2005.

The point of maintainability has been urged by the learned counsel appearing on behalf of the Union of India. It is submitted that since the petitioner wants absorption in the Eastern Railway, the petitioner should approach the Central Administrative Tribunal, being the appropriate authority under the Administrative Tribunals Act, 1985.

Mr. Kundu, learned counsel appears on behalf of the petitioner and submits that the representation of the petitioner was directed to be considered by another Co-ordinate Bench. The Railway authorities did not agitate the point of maintainability. Therefore, this writ petition is also maintainable before this Court.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the appropriate Tribunal under the Administrative Tribunals Act, 1985 is the Court at first instance relying on the Apex Court judgement in (**L. Chandra Kumar vs. Union of India & Ors.**) reported in (1997) 3 SCC 261. Therefore, this Court has no jurisdiction to receive, try and entertain the present writ petition at the first instance.

Accordingly, **WPA 18958 of 2023** is **dismissed.**

The petitioner will be at liberty to approach the appropriate forum if so advised.

Since affidavits have not been invited in the present writ petition, the allegations made in the writ petition are deemed not to have been admitted by the parties.

All parties are to act on a server copy of this order downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J)