

22
01.03.2023
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A 357 of 2023

**Mintu Roy & Ors.
-versus
The Union of India & Ors.**

**Mr. Subhasish Misra,
Mr. Swarup Das.
...For the Petitioners.**

**Mr. Sudipto Kumar Mazumdar. DSGI.
...For UOI.**

**Mr. Ajoy Kumar Singhania.
...For the NF Railway.**

Affidavit-of-service filed in Court today is taken on record.

The petitioners participated in a recruitment process initiated by the Railway Protection Force, North-East Frontier Railways and were successful.

Challenging the recruitment process, eighteen candidates filed writ petition before the Gauhati High Court being Case No. WP(C) 2120/2016.

A learned Single Judge of the said High Court disposed of the writ petition on 9th December, 2019 with a direction that the respondent railway authorities shall conduct a *de novo* written test for the petitioners in the manner required in the Employment Notice No.1/2013 and upon carrying out such exercise, take a reasoned decision on the acceptability of their

candidature for appointment to the concerned posts. The required exercise was directed to be conducted within six months.

The petitioners submit that the railway authority, on the plea of the order passed by the Gauhati High Court, is not taking any steps to conclude the recruitment process.

Reliance has been placed upon a communication dated 22nd February, 2022 by the Director/RPF Railway Board to the IG-cum-Principal Chief Security Commissioner/RPF wherein it has been mentioned that the Railway Board in consultation with the Legal Directorate of the Board has opined that Security Directorate may go ahead with the training process of the candidates who were recruited from the Guwahati Center and whose training process has been halted. However, since Railway has filed a writ appeal, leave may be obtained from the Hon'ble High Court.

Based on the said decision, the competent authority decided that the eight candidates mentioned in the said communication may be sent for training as they were neither from the NE region nor were empanelled for the NF Railway. The names of the petitioners appear in the said communication.

The petitioners submit that the recruitment process was initiated in the year 2013 and even after expiry of ten years the said process is yet to be concluded.

Learned advocate appearing for the Railways submits that in view of the opinion of the Legal Directorate, Railway Board, the petitioners and the

others whose names appear in the communication dated 22.02.2022 cannot be permitted to join the training programme as leave is yet to be given by the Hon'ble High Court at Gauhati. It has further been contended that no legal right of the petitioners has been infringed by not permitting them to participate in the training programme.

I have heard and considered the submissions made on behalf of both the parties and have perused the documents annexed to the writ petition.

Admittedly, the employment notice is of the year 2013. The petitioners have been found to be successful in the recruitment examination and were empanelled for training.

The order passed by the Hon'ble Gauhati High Court in the year 2019 is strictly restricted to the petitioners in the said writ petition. The said order cannot be made applicable *in rem* in respect of the other successful candidates who were not parties to the said proceeding.

The Directorate, RPF has clearly mentioned in the communication dated 27th February, 2022 that the empanelled candidates mentioned in the communication dated 22th February, 2022 are not from the NE region and are not empanelled for the NF Railway.

In the opinion of this Court, the order passed by the Hon'ble Gauhati High Court ought not to stand in the way of respondent authority to permit the candidates whose names appear in the communication

dated 22nd February, 2022 to participate in the training programme.

In view of the above, the instant writ petition is disposed of by directing the Principal Chief Security Commissioner, RPF, NE Frontier to take consequential steps in the matter pursuant to the communication dated 22nd February, 2022 at the earliest, but positively within a period of eight weeks from the date of communication of this order.

The writ petition stands disposed of.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)