

**14.06.
2024**

Ct. No. 08

Ab

WPCRC 77 of 2024

Sankar Panda

Vs.

Sri Anil Kumar Mishra and others.

**Mr. Surajit Samanta,
Ms. Sohini Samanta.**

... for the applicant.

**Mr. Sauvik Nandy,
Mr. Subrata Ghosh.**

... for the alleged contemnors.

Pursuant to the order dated 19th April 2024 whereby and whereunder the Rule of Contempt was issued upon the alleged contemnors, the alleged contemnors are present both physically and on virtual mode before us.

The instant contempt application has been taken by the applicant alleging willful and deliberate violation of the order dated 11th May 2023. By disposing of the writ petition originating from an application taken out before the Tribunal, it was recorded that even a candidate, who could not qualify for a physical efficiency test may still be considered for medical test.

The order passed on the said date was categorical that the land losers were permitted to participate in the process of recruitment in such category provided they are qualified in the medical test and the other eligibility criteria, which if/ found to be in tune with the scheme or on the basis of the different orders passed by the Tribunal and the Court.

Since no affidavit was filed on the said date, the Rule was issued in furtherance of such inaction on the part of the alleged contemnors, but when the matter is taken up today, leave is sought to tender such affidavit, which is now in order. Such leave is granted in pursuit of justice to be rendered to the litigants and to arrive at an ultimate decision in relation to an allegation made in

the contempt application at the behest of the applicant.

The affidavit filed by the alleged contemnors would reveal that the sole applicant underwent medical examination in terms of the order dated 11th May 2023, but was found to suffer from vision problem and, therefore, could not qualify as an eligible candidate for appointment under the land losers' category.

Mr. Surajit Samanta, learned Counsel for the applicant, submits that the communication received by his client does not reveal any specification regarding the disease detected during the medical examination and, therefore, mere alleging that the applicant is medically unfit in the said affidavit is inappropriate and unsubstantiated.

The Counsel for the alleged contemnors hands over a copy of the medical examination report of the applicant to Mr. Samanta in Court today, which lucidly and vividly reflects the medical incapacity to render services in the Railway Administration. It is further submitted that in the event the applicant is dissatisfied with the medical examination, there is a provision for preferring an appeal before the higher authority, but so long the said medical report remained on record and not superseded by further medical examination report, the applicant would be treated to have been disqualified in the medical examination and, therefore, the appointment cannot be given to him.

In view of the above stand, since the order dated 11th May 2023 exposits the medical test to be undertaken by the Railway Administration for ascertaining the suitability of the candidate for appointment under the land losers category and having found the applicant to be unfit, we do not intend to go any further in the instant contempt application.

However, it is open to the applicant to take

appropriate steps as permissible in law and in the event the applicant is found eligible or suitable on the basis of further action to be taken in accordance with law, the authority shall take appropriate steps without unreasonable delay in this regard.

The contempt application is, thus, dismissed.

The Rule is hereby discharged.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)