

30.07.2024
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WPCT 201 of 2024
Union of India & Others
– *Versus* –
Shri Sanjib Mukherjee

Mr. Swapan Kumar Nandi,
Mr. Rajesh Kumar Shah
... for the Petitioners.

Mr. Kalyan Sarkar,
Mr. Falguni Bandyopadhyay,
Ms. Adrija Sarkar,
Ms. Riya Ballav
... for the Respondent.

Affidavit-of-service filed by the petitioners be
kept on record.

The present writ petition has been preferred by
Union of India and its functionaries, being the
petitioners herein challenging the order dated 23rd
March, 2023 passed by the learned Tribunal in the
original application (in short, OA), being OA 1561 of
2021 and the order dated 7th March, 2024 passed in
the review application, being RA 28 of 2023, preferred
by the petitioners.

Mr. Nandi, learned advocate appearing for the
petitioners submits that the impugned orders have
been passed without taking into consideration the fact
that a committee of three Assistant Scale Officers
examined the case of the original applicant/respondent
herein and found that *‘the Chief Fingerprint Examiner
has reported that there was a mismatch of fingerprints*

of the applicant’ and that as such, ‘the services of the applicant were not regularized and his service book was not opened’.

He argues that the engagement of the respondent as a substitute did not confer any right upon him to be absorbed in permanent category. Such arguments, as advanced, were glossed over by the learned Tribunal and no findings were returned on the same. Such infirmity in the orders impugned warrants interference of this Court.

Mr. Sarkar, learned advocate appearing for the respondent denies and disputes the contention of the petitioners and submits that the respondent has been unnecessarily heckled and harassed by the petitioners and his regularization was denied by issuing cryptic orders which were rightly interfered with by the learned Tribunal.

He argues that it would be surprising to note that the alleged report of the Chief Fingerprint Examiner, as referred to by the petitioners, was not even produced before the learned Tribunal. The petitioners have illegally denied to regularize the respondent, who had rendered more than 35 years of service. In the said conspectus, the learned Tribunal rightly directed the petitioners to regularize the services of the respondent against a regular vacancy or if necessary, by creating a post coterminous with the

duration of the service rendered by him reckoned from the date his immediate junior was regularized.

Mr. Sarkar contends that such specific direction of the learned Tribunal was not complied with and to further delay the matter the petitioners preferred a review application along with an application for condonation of delay and the review application was ultimately dismissed by an order dated 7th March, 2024.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the respondent was engaged as a substitute Group – ‘D’ employee in the Traffic Department under the Station Superintendent, Sealdah, Eastern Railway in the year 1985. He attained temporary status in 1990. He was sent for screening in 1997. In 2002 he was posted as a substitute under Senior DEE/G/Sealdah. Thereafter the respondent’s claim for regularization was sought to be kept in abeyance for an indefinite period. The sole ground towards denial of regularization was that a Chief Fingerprint Examiner had reported that there was a mismatch in fingerprints of the respondent. Such mismatch in fingerprints implies impersonation and warrants an enquiry. However, the petitioners miserably failed to substantiate that any such enquiry

was ever conducted. The petitioners also failed to produce the report of the alleged committee constituted pertaining to examination of the fingerprints of the respondent.

Accordingly, the learned Tribunal rightly negated the contention of the petitioners and issued necessary directions for regularization of the services of the respondent and we do not find any infirmity in such decision.

In view thereof, the writ petition, being WPCT 201 of 2024, is dismissed.

As the writ petition has been dismissed, the petitioners are directed to comply with the order dated 23rd March, 2023 passed by the learned Tribunal and to extend all consequential benefits to the respondent positively within a period of one month from the date of communication of this order.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)