

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WP.CT 60 of 2025

Union of India & Ors.
v.
Sikander Rajak & Anr.

Mr. Kaushik Ray
Mr. Asit Kumar De
Mrs. Susmita Senapati
... For the petitioners

1. The Original Application filed by the applicant as OA 23 of 2005 was disposed of by the Central Administrative Tribunal, Kolkata Bench, Kolkata vide an order dated 13th September, 2010. The relevant extract of the said order reads as follows:

“7. In the facts and circumstances of the case the ends of justice shall be made if the applicant is allowed to resume his duty as a substitute Bungalow Peon to respondent no.4 under E.C. Railway. He can resume his duty within a week of the receipt of this order. As far as the salary for the intervening period is concerned we direct the Railway Board to look into the matter and decide the issue as the CLW a production unit and Zonal Railway both headed by an officer of GM rank are having contradictory stand and the stand of the Railway Board on the letter sent by the E.C. Railway is not on record. This exercise shall be completed within two months of the receipt of the copy of this order.

8. The OA stands disposed of accordingly with no order as to costs.”

2. Immediately thereafter, a review application was filed in view of the fact that the officer with whom the Tribunal considered it appropriate to allow the application to resume duty as Substitute Bungalow Peon had already been transferred to another Railway and retired from service before the date of the order passed in the OA. This RA has been pending for 12 years. RA 14 of 2011 has been finally disposed of by the order dated 23rd May, 2023 by the Central Administrative Tribunal, Kolkata Branch, Kolkata. It is this order which is the subject matter of the present proceedings.

3. We have enquired from the petitioners as to whether the said post is a permanent post or not. The answer to this question is in the negative. It is our further query from the petitioners whether the employee is serving anywhere within the organization or not. In response it is only stated by the learned counsel for the petitioners that since order passed in OA 23 of 2005 was incapable of being complied with for reasons indicated above, they considered it appropriate to file a review under an apprehension that a contempt application may be filed for enforcement of the order passed in OA 23 of 2005.

4. No contempt application, however, has been filed for the last more than 12 years as per instruction of the

learned counsel for the Railways. The incapability to comply with the order is an issue that the petitioners would be entitled to raise in the event such an occasion arises.

5. We find no infirmity in the order passed by the Tribunal dismissing the review application inasmuch as the Tribunal recorded that even after the same is pending for 11 years, there has been consistent non-representation on behalf of the petitioners, till the date on which it has been dismissed, i.e., on 23rd May, 2023.

6. In the result, the writ petition is disposed of.

7. Affidavit of service has been filed which shows that the service could not be effected. Let the same be kept on record.

8. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

9. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J)