

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

W.P.C.T. 344 of 2024

Prasanta Pal

Vs.

Union of India & Ors.

For the Petitioner : Mr. Sudipta Dasgupta, Adv.,
Ms. Sinjini Chakrabarti, Adv.

For the Respondents : Mr. Sanajit Kumar Ghosh, Adv.

Judgment on : 20.02.2025

Madhuresh Prasad, J.:

1. The present petitioner was an applicant pursuant to an advertisement brought out by the respondent railways for recruitment in Group-'D' post. The employment notice was published on August 16, 2012. According to the petitioner he appeared at the written examinations and the Physical Eligibility Test (P.E.T). Thereafter he has not been called for medical tests, or offered appointment. He has made a vague assertion in the O.A. file before the Tribunal that he had filed an application before the Central Administrative Tribunal (CAT) bearing no. 139 of 2019, which is pending. The petitioner however has maintained a calculative silence

on the substance and the relief claimed on O.A. No. 139 of 2019, said to have been filed by him in the year 2019.

2. Others who participated in the same recruitment process were agitating their rights before the Court/s. An order came to be passed on 25.10.2017 by a Division Bench of this Court in WPCT 116 of 2017 directing that answer key with respect to the examination held pursuant to the employment notice no. 0112 dated 16.08.2012 should be made available to the petitioner therein. In view of non-compliance of this order it appears that the matter was taken up in contempt proceedings. On 15.07.2021, the Chairman of the Railway Recruitment Cell (Eastern Railway) uploaded the answer key of the written examination for the said employment notice for information of all concerned on the website.

3. When the answer key was uploaded the present petitioner saw the same and made a representation before the authorities for reassessing and re-evaluating the petitioners performance.

4. Nearly a decade after the recruitment process wherein the petitioner was not offered appointment, he approached the CAT Kolkata Bench by filing a second O.A. No. 457 of 2022 seeking directions to reassess, reevaluate the petitioners performance in the recruitment process and for consequential direction to appoint the petitioner. In the said case the learned counsel representing the petitioner submitted before the Tribunal that with respect to the same employment notice the Hon'ble Apex Court in SLP(C) No. 16330 of 2022 directed for constitution of an expert committee to examine

the answer key whereafter the Railway Board was to take appropriate consequential action on the report of the expert committee.

5. In view of such direction passed in the proceedings at the instance of the other candidates, the present petitioner in his pending case (O.A. 457 of 2022) made a prayer before the Tribunal that since he had submitted a representation dated 12.01.2022 for reevaluation of his O.M.R, he may be allowed to file an additional representation before the respondents for reevaluation of the O.M.R sheet based on report of the expert committee. The petitioner cited an example of another similarly situated to submit that the Tribunal had passed a similar orders in his favour in O.A. No. 756 of 2022 in the matter of Palash Mondal Vs. Eastern Railway.

6. The Tribunal thus passed the following order in the O.A. No. 457 of 2022 filed by the petitioner:-

“4. Considering the aforesaid submissions and request, we deem it to dispose of this O.A., at admission stage, with liberty to the applicant to file an additional representation for redressal of his grievance before the competent authority within 4 weeks from the date of receipt of a certified copy of this order. Further, the respondents are directed that upon receipt of such additional representation, the said competent respondent authority shall consider it, in accordance with the terms of the employment notification, as well as, in the light of the direction issued by the Hon'ble Apex Court as referred to herein above, expeditiously.

It is made clear that we have not entered into the merits of the matter.

5. With the above directions, this O.A., stands disposed of. No costs”.

7. Subsequently the petitioner filed M.A. No. 90 of 2024 wherein the petitioner made a *volte face* and submitted before the tribunal that he had already filed his detailed representation, which was

required to be considered and, that there is no need for the applicant to submit any other comprehensive representation as per liberty obtained by him from the tribunal in OA No. 457 of 2022, extracted above. He thus, sought a direction to consider and dispose of the pending representation without insisting for any other comprehensive representation. The petitioner thus, sought recalling of the earlier order passed on 31.08.2023 in his OA No. 457 of 2022.

8. Conceding to the prayer of the petitioner made in the MA the tribunal passed the following order:

8. Heard the Ld. Counsel for the parties. Considering the aforesaid submissions and upon perusal of material on record as well in the interest of justice, we accept the prayer of Ld. Counsel for the applicant in the M.A. and recall Para 4 of the common order passed by this Tribunal dated 31.08.2023 in group of O.A.s, which shall be read as under:-

"4. Since this Tribunal has considered identical requests as prayed for in the instant group of O.As, we deem it fit to dispose of these OAs, without entering into the merits of the claim of the applicants, with liberty to the applicants herein to file individual comprehensive representations along with supporting documents before the competent authority to justify their claim within 6 weeks from the date of receipt of a certified copy of this order, if they so desire and if the applicants have already filed their representations, as like the applicant of O.A. 457/2022 and other identical applicants/candidates in these group of O.A.s, it is directed that the competent respondent authority shall consider such representations, in accordance with the terms and conditions of the respective employment notices untrammelled by the previous speaking order(s), if any, and in the light of various directions issued by the Hon'ble High Court/this Tribunal as well as the judgment passed by the Hon'ble Apex Court in SLP (C) 16330/2022 and the various instructions issued by the Railway Board in this regard in similar cases. The decision arrived at shall be conveyed to the applicants herein expeditiously by way of a reasoned and speaking order.

We reiterate that we have not expressed any opinion on the merit of the claim of the applicants."

9. On a bare perusal of the order passed in MA 90 of 2024 we find that the same has been passed as per the prayer of the petitioner made before the tribunal. In the present writ petition it is not the case of the petitioner that such prayer was not made before the tribunal. We, therefore, are unable to appreciate filing of a writ petition challenging the order passed in MA 90 of 2024, as per prayer of the petitioner/applicant before the tribunal.

10. We find no reason to interfere with the order passed by the tribunal. The writ petition is accordingly dismissed.

11. Parties shall be entitled to act on the basis of the server copy of the judgment placed on the official website of the Court.

12. Urgent certified photo copies of this judgment, if applied for, be given to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

I Agree,

(Supratim Bhattacharya, J.)