

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble The Acting Chief Justice SUJOY PAUL
&
The Hon'ble Justice PARTHA SARATHI SEN

WP.CT 20 OF 2024
ARUP BACHHAR
-Vs-
UNION OF INDIA & ORS.

with
WP.CT 21 OF 2024
ANGSHUMAN BHANDARI
-Vs-
UNION OF INDIA & ORS.

with
WP.CT 22 OF 2024
SASANKA SEKHAR SANTRA
-Vs-
UNION OF INDIA & ORS.

with
WP.CT 23 OF 2024
BISWANATH BANIK ROY
-Vs-
UNION OF INDIA & ORS.

with
WP.CT 24 OF 2024
KALIDAS BISWAS
-Vs-
UNION OF INDIA & ORS.

with
WP.CT 25 OF 2024
SUCHITRA MONDAL
-Vs-

UNION OF INDIA & ORS.

with
WP.CT 26 OF 2024
DEBRAJ MUKHERJEE
-Vs-
UNION OF INDIA & ORS.

with
WP.CT 27 OF 2024
ANWAR HOSSAIN LASKAR
-Vs-
UNION OF INDIA & ORS.

with
WP.CT 28 OF 2024
ARATI BANIK ROY
-Vs-
UNION OF INDIA & ORS.

For the Petitioners:

Mr. Joyak Gupta, Adv.,
Mr. Mahadeb Ghosh, Adv.
Mr. Nandadulal Bandyopadhyay, Adv.,
Mr. Pritam Ghosh, Adv.

For the Union of India:

Ms. Chandreyi Alam, Adv.,
Ms. Indrani Chakraborty, Adv.

Hearing concluded on:
Judgment on:

06.01.2026
13.01.2026

PARTHA SARATHI SEN, J. : –

1. In this set of writ petitions the order dated 10.05.2023 as passed by the Central Administrative Tribunal, Kolkata Bench, Kolkata (hereinafter referred to as the said Tribunal) in connection with O.A. 350/ 419/ 2016, O.A. 350/176/2018, O.A. 350/177/2018, O.A. 350/178/2018, O.A.

350/179/2018, O.A. 350/180/2018, O.A. 350/181/2018, O.A. 350/182/2018, O.A. 350/183/2018 and O.A. 350/184/2018 is assailed.

2. It is pertinent to mention herein that by a common judgment and order the said Tribunal disposed of the afore-mentioned 10 original applications.
3. Since identical questions of facts and laws are involved in these writ petitions and since the subject matter of challenge in these writ petitions is the common order dated 10.05.2023 as passed by the said Tribunal, we propose to dispose of the instance writ petitions by a common judgment. For our convenience, we also propose to deal with the facts as involved in WP.CT 20 of 2024 who is the original applicant before the said Tribunal in OA 350/180/2018.
4. For effective adjudication of the instant writ petitions, we propose to deal with some relevant facts leading to filing of the said 10 original applications before the said Tribunal and those are as under:
 - (i) Purportedly by an order dated 15.06.2024 the respondent no. 2 authority selected some Group D staff for the post of Commercial Clerk and Ticket Collector and directed to be spared for undergoing the training.
 - (ii) The writ petitioner in WP.CT 20 of 2024 claimed that he had completed such training at Zonal Railway Training Institute at Bhuli, Dhanbad and on completion of the same he was awarded with a training completion certificate dated 20.09.2004 by the said institute (Annexure A-4). Likewise, the other petitioners of the captioned

- mentioned writ petitions had also claimed to have undergone training in the same institute and they have claimed that they have been issued with similar such certificates from the same institute.
- (iii) Even after completion of the alleged training the writ petitioners were not given appointment in the post of Commercial Clerk/ Ticket Collector by the railway authority and thus, they approached the said Tribunal by filing O.A. 653 of 2012 which came to be disposed of on 13.08.2013 whereby and whereunder the said Tribunal directed the respondent no. 2 herein to pass a reasoned and speaking order on the claim put forth by the petitioners considering the documents as has been annexed with the said original applications.
- (iv) In case of writ petitioner of WP.CT 20 of 2024 such reasoned order dated 22.11.2013 was passed by the respondent no. 2 authority whereby and whereunder the said respondent no. 2 authority came to a factual finding that the writ petitioner in WP.CT 20 of 2024 has miserably failed to prove his initial appointment letter for the Group D post, pay slip, PF No. etc. and thus held that the said petitioner failed to establish that he was an employee of Eastern Railway at any point of time and/or he was selected for promotion to the post of Ticket Collector/Commercial Clerk as wrongly claimed.
- (v) The respondent no. 2 authority also came to a finding that the writ petitioner(s) got wrongful entry in the Zonal Training School, Bhuli, Dhanbad on the basis of some fake documents which tantamount to

fraud and thus, the matter was taken up for investigation by the CBI authority.

- (vi) In case of other petitioners, almost identical speaking order was passed by the respondent no. 2 authority.
- (vii) The writ petitioners in WP.CT 20 of 2024 challenged such reasoned orders dated 22.11.2013 before the said Tribunal by filing O.A. 350/00341/2014 which was disposed of by the said Tribunal by a judgment and order dated 28.07.2015, the relevant portions of which are quoted hereinbelow in verbatim:

“The Respondent No. 3 (the Chief Personnel Officer, Eastern Railway, Fairlie Place, Kolkata-700001) is directed to conduct the oral enquiry by himself and take a decision or Respondent No. 3 could direct a responsible officer of the respondent department to conduct the oral enquiry and in any case due opportunity shall be granted to the applicants to participate (and on submission of the enquiry report, if conducted by a person other than Respondent No. 3, and thereafter the Respondent No. 3 shall consider the same before taking a decision). The decision shall be taken uninfluenced and untrammelled by any of the observations made in this OA within a period of three months from the date of receipt of a copy of this order.”

- (viii) Pursuant to such judgment and order dated 28.07.2015 the respondent no. 2 authority passed another speaking order dated 18.11.2015 in case of writ petitioner in WP.CT 20 of 2024 the relevant portion of which is as under :

“It is evident from submission of Sri Bachhar that he was not appointed by Railway and no such appointment letter is with him. It is very surprising that the applicant is claiming to work under ASM at Hind Motor which is a flag station and no ASM/SM is posted there. Moreover,

the documents submitted by Sri Bachhar got verified from DRM/Howrah. It is certified that no one was worked as Porter at Hind Motor station in the said name.

The order annexure pertains to Zonal Training School, was issued as per usual system in vogue at the Training Centre in respect of the Trainees. At the material point of time there was no system of verifying the genuinity of the candidates/letters at the Zonal Training School and as per usual practices they were allowed to undergo training. Since the training had been procured by means of fraud, such training does not confer the applicant any right for employment in Railways.

Under the fact and circumstances above, it is established that the applicant was not an employee or Eastern Railway at any point of time, nor was selected for promotion to post of Comml. Clerk as claimed. The applicant has placed a concocted story of his initial engagement in Railways and submitted fake office orders of promotion and sparing letter in order to wrongfully gain of entry in Govt. service fraudulently. As such, the claim put forward by the applicant herein above is rejected having no merit.”

- (ix) Almost similar such orders were passed by the respondent no. 2 authority in case of other writ petitioners which became the subject matters of challenge in the original applications particulars of which have been mentioned in paragraph 1 of the instant judgment.
- (x) While passing the impugned judgment in connection with the said 10 numbers of original applications as preferred by the writ petitioners, the said Tribunal found no reason to interfere with the speaking orders dated 18.11.2015 and thus, dismissed the said 10 numbers of original applications.

5. At the time of hearing, Mr. Joyak Gupta, learned Counsel appearing on behalf of the writ petitioners at the very outset submits before this Court that the said Tribunal while passing the impugned judgment has failed to visualize

that the speaking order dated 18.11.2015 as passed by the respondent no. 2 authority is not sustainable in the eye of law in view of the fact that the respondent no. 2 authority though noticed that the documents as relied on by the writ petitioners in relation to their appointment is the subject matter of investigation by the CBI authority and in absence of any final report regarding such investigation, the respondent no. 2 authority ought not to have held that the entry of the writ petitioner in the railway services are based on fake documents and/or procured by fraud.

6. It is further submitted on behalf of the writ petitioners that the said Tribunal has also miserably failed to visualize that the writ petitioners have undergone training in the Zonal Railway Training Institute and on completion of the same, they have obtained training completion certificate which pre-supposes that the entry of the writ petitioners in the railway was in accordance with law.

7. It is further argued that the said Tribunal while passing the impugned order has also failed to visualize that the railway authority has not observed the principle of natural justice while passing the speaking order dated 18.11.2015 inasmuch as the alleged report as received by the said authority regarding the authenticity of the documents as relied upon by the writ petitioners were never supplied to the writ petitioners and thus the improper finding of the railway authority that the said documents are forged and fake ought not to have been believed by the said Tribunal.

8. It is thus submitted that it is a fit case for quashing of the order impugned and for issuance of appropriate writ/ writs, commanding the respondents to allow the writ petitioners to resume their duties.
9. Per contra, Ms. Alam, learned Advocate appearing on behalf of the respondent/ Union of India and its instrumentalities supported the impugned judgment. It is contended that in absence of any material irregularity and/or glaring illegality in the impugned judgment there cannot be any justification to interfere with the same.
10. We have meticulously gone through the entire materials as placed before us. We have given due consideration over the submissions of the learned Advocate for the contending parties.
11. On perusal of the speaking order dated 18.11.2015 as passed by the respondent no. 2 authority it reveals that the writ petitioner in WP.CT 20 of 2024 was given due opportunity of hearing by the respondent no. 2 authority prior to passing of the said speaking order. Similar such opportunity was given to the writ petitioners in connection with the captioned mentioned other writ petitions.
12. On careful perusal of the said speaking order dated 18.11.2015 it appears that the respondent no. 2 authority on close scrutiny of the entire materials as placed before him came to a factual finding based on verification from the appropriate authority that the claim of the writ petitioners that they have worked as Group D employee/ porter is not correct. The respondent no. 2 authority also noticed that on the basis of some procured documents, the writ

petitioners managed to get entry in the Zonal Training School since at that material time, the said school lacked the system of verifying the genuineness of the documents. We have also noticed that based on such finding the respondent no. 2 authority noticed that the writ petitioners have miserably failed to establish that they were employee of the railway at any point of time.

13. On careful perusal of the impugned judgment we find that the said Tribunal while passing the impugned judgment meticulously dealt with the factual matrix as involved in the case of each petitioner and came to a finding that there is hardly any scope to interfere with the speaking order dated 18.11.2015 in absence of any manifest illegality and/or procedural propriety and palpable perversity.

14. Before entering into the merits of the instant writ petitions we at the very outset propose to look to the settled principles of law governing exercise of extraordinary jurisdiction under Article 226/227 of the Constitution of India more particularly, when it comes to issue writ of certiorari. In the reported decision of **Central Council for Research in Ayurvedic Sciences Vs. Bikartan Das and Ors.** reported in **(2023) 16 SCC 462** the Hon'ble Apex Court held thus:

“51. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not

substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.

52. *The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although 46 founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.*

53. *The essential features of a writ of certiorari, including a brief history, have been very exhaustively explained by B.K. Mukherjea, J. in T.C. Basappa v. T. Nagappa and Another, reported in AIR 1954 SC 440. The Court held that a writ in the nature of certiorari could be issued in ‘all appropriate cases and in appropriate manner’ so long as the broad and fundamental principles were kept in mind. Those principles were delineated as follows:*

“7. ... In granting a writ of ‘certiorari’, the superior court does not exercise the powers of an appellate tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous, but does not substitute its own views for those of the inferior tribunal

8. *The supervision of the superior court exercised through writs of certiorari goes on two points, as has been expressed by Lord Sumner in King v. Nat Bell Liquors Limited [(1922) 2 AC 128, 156]. One is the area of inferior jurisdiction and the qualifications and conditions of its exercise; the other is the observance of law in the course of its exercise.*

9. *Certiorari may lie and is generally granted when a court has acted without or in excess of its jurisdiction.”*

54. *Relying on T.C. Basappa (supra), the Constitution Bench of this Court in the case of Hari Vishnu Kamath (supra), laid down the following propositions as well established:*

“(1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior court or tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

(2) Certiorari will also be issued when the court or tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice.

(3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous.”

15. Keeping in mind such settled principle of law as discussed supra), if we look to the factual matrix as involved in the instant writ petitions, it appears to us that the writ petitioners before us have miserably failed to show any error of law either committed by the said tribunal or by the respondent no. 2 authority which are apparent on the face of the record while arriving at their finding.

16. We are conscious that while sitting in writ/ supervisory jurisdiction, we are not expected to act as an appellate Court and thus, we are not supposed to

reassess the evidence upon which the Tribunal and/or the respondent no. 2 authority based its finding. We are equally conscious that we cannot substitute our own finding simply on the ground that another view is possible.

17. Rather it appears to us that while passing the speaking order dated 18.11.2015 the respondent no. 2 authority had given due opportunity of hearing to the writ petitioners as has been rightly observed by the said Tribunal in its impugned judgment. The respondent no. 2 authority before us prior to passing of the speaking order dated 18.11.2015 duly verified the documents as relied upon by the writ petitioners from the competent authorities and came to a factual finding that those documents are not genuine which the Tribunal rightly declined to interfere in absence of any procedural illegality and/or irregularity.

18. We have also noticed that the said Tribunal rightly found that since the writ petitioners had undergone a training in the railway training institute, such completion of training *ipso facto* does not give any right to the writ petitioners to join the promotional post of Commercial Clerk/ Ticket Collector since the writ petitioners have miserably failed to produce any cogent material to substantiate their appointment in the railways at any point of time. The argument of the learned Advocate for the writ petitioners that the respondent no. 2 authority before coming to a finding that the documents as relied upon by the writ petitioners are fake, ought to have waited for the final report of the CBI is not at all acceptable to us since the purpose of investigation by the CBI was to see as to whether any offence was committed or not and thus, the same

cannot be a bar in forming an opinion on the part of the respondent no. 2 authority with regard to the genuineness of the documents relied upon by the writ petitioner especially when he got the same verified from the competent authorities who allegedly issued the same.

19. In view of the discussion made hereinabove, we find no merit in the instant writ petitions and the instant writ petitions are thus dismissed.
20. Consequently all pending interlocutory applications are also dismissed.
21. Interim order, if there be any, stands hereby vacated.
22. Urgent photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

I agree.

(SUJOY PAUL, A.C.J.)

(PARTHA SARATHI SEN, J.)