

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Suvra Ghosh

And

The Hon'ble Justice Rai Chattopadhyay

CPAN 1475 of 2023

in

WPCT 101 of 2023

Kalam Ali Mondal & Ors.

Vs.

Vidya Bhusan & Ors.

+

CPAN 1481 of 2023

in

WPCT 103 of 2023

Sk. Gulam Hossain & Ors.

Vs.

Sanjay Kumar Mohanty & Ors.

+

CPAN 1564 of 2023

in

WPCT 98 of 2023

Sudarshan Mal & Ors.

Vs.

Sanjay Kumar Mohanty & Anr.

+

CPAN 1480 of 2023

in

WPCT 99 of 2023

Debi Prasad Ruidas & Ors.

Vs.

Vidya Bhusan & Ors.

For the Applicants : Mr. Surajit Samanta
: Ms. Sohini Samanta

For the alleged contemnors : Mr. Souvik Nandy
: Mr. Subrata Santra

Heard on : 06/05/2026

Judgment on : 13/05/2026

Rai Chattopadhyay, J. :-

1. The four contempt applications (mentioned above) connected with the respective writ petitions (mentioned above), are filed alleging intentional and willful violation of the order dated June 19, 2023 and August 09, 2023 in the said writ petitions, passed by the Bench comprising Justice V.M. Velumani and Justice Rai Chattopadhyay. These contempt applications have been assigned to this Bench vide order of the Hon'ble the Chief Justice dated April 23, 2024. Hence, these have been heard analogously and are disposed of by way of this common judgment.
2. Relevant portion of the order dated June 19, 2023 be quoted hereinbelow, for the benefit of discussion:-

"The respondents are directed to comply with the order dated 16.3.2020 by adopting identical process as adopted for the petitioner in WPCT 74 of 2016 while considering the claim of the petitioners and pass orders within four months from today. If the respondents fail to comply with the order, it is open to the petitioners to mention before the Tribunal for reopening the contempt petitions for not complying with the order passed by the Tribunal dated 16.3.2020.

With the aforesaid direction, all the writ petitions are allowed."

3. The writ petitions as above arose challenging the orders of the Central Administrative Tribunal (CAT) Kolkata Bench, dated April 18, 2023 and May 09, 2023, by dint of which the CAT Kolkata Bench has dismissed contempt petitions filed by the present applicants. Let the factual background as relevant to discuss in these contempt applications be narrated in a nutshell.
4. The petitioners are land losers who agreed for acquisition of their land for Nandigram Deshapran Project and Arambag Bowaichandi Railway Project on the assurance given that one person of their family will be given employment by the respondent Railway authorities. When the respondents failed to honour their assurance and failed to give appointment to any one of the family members of land losers, they approached the Tribunal by filing original applications and obtained orders. This Court also passed various orders for considering the persons from the family of the land losers for appointment in the Railways. This Court by order dated February 08, 2019 in WPCT No.74 of 2016 passed the following directions :-

“21. It is evident from the materials-on-record that even land losers, who were 47 years old, have been offered appointment. The respondent no.1 was 46 years old on the date he approached the tribunal for the first time. When his claim was rejected by the first order dated July 15, 2014, age-bar was not cited as a ground therefor. What we find is that there were absence of certain documents/papers for which the claim of the respondent no.1 could not be put up before the screening committee for screening. If indeed that was the reason for regretting his prayer, the petitioners ought to have asked the respondent no.1 to supply the documents, which were not there in the file, instead of closing his right to claim appointment. We, therefore, propose to pass the following further directions to close the breach:

- (i) *within a period of seven days from date of receipt of a copy of this judgment and order, the Chief Personnel Officer shall intimate the respondent no.1, which of the documents are required from his end for ensuring placement of his claim before the screening committee;*
- (ii) *within a month of receipt of such intimation, the respondent no.1 shall produce the necessary documents/papers before the Chief Personnel Officer and upon receipt of such documents/papers the claim of the respondent no.1 shall be placed before the screening committee for an appropriate decision;*
- (iii) *bearing in mind the fact that other land losers have been offered appointment even upon attaining 47 years of age, we hope and trust that the screening committee shall not cite age-bar as a ground for not considering the claim of the respondent no.1 and if a power of relaxation is indeed available to consider invocation of such power if the merits of the case so warrants; and*
- (iv) *the entire exercise shall be completed as early as possible but not beyond June 30, 2019."*

5. The petitioners herein and others filed separate Original Applications before the Tribunal. The Tribunal, considering the judgement dated February 08, 2019 in WPCT 74 of 2016, passed the following order dated March 16, 2020 :-

"10. In view of the direction of the Hon'ble High Court supra, and our revelations as indicated above, we feel it appropriate in the interest of justice, to direct the respondents to undertake an identical exercise as directed by the Hon'ble High Court in WPCT 74 of 2016 and issue appropriate order in regard to the present applicants within 4 months."

6. The petitioners herein and others filed various contempt petitions before the Tribunal alleging non-compliance of the order of the Tribunal dated March 16, 2020. The Tribunal by orders dated April 18, 2023 and May 09, 2023 dismissed the contempt petitions

holding that the respondents have substantially complied with the order dated March 16, 2020. Against the said orders the petitioners have filed the present writ petitions.

- 7.** The grievance of the petitioners before the Tribunal was is that the respondents have failed to grant age relaxation for the petitioners and also introduced a new condition of Physical Efficiency Test (PET). They further contended that there was no provision for PET at any point of time before the 2019 Circular issued by the Railways. They also contended that the Tribunal failed to consider the grievances of the petitioners and erroneously dismissed the contempt petitions on the ground that the respondents have substantially complied with the order dated March 16, 2020.
- 8.** Those persons, who are the petitioners/applicants in these contempt applications are represented by Mr. Surajit Samanta, learned advocate. The applicants' submissions in brief are that, the Court had directed the respondents to follow the same procedure adopted in WPCT 74 of 2016 while considering the petitioners' claims and to pass appropriate orders within four months.
- 9.** According to the present appellants, the alleged contemnors rejected the petitioners' claims without following the Court's directions. The claims have been rejected on grounds such as disqualification in the physical efficiency test, being overage, and being non-matriculate. According to the applicants, these grounds had already been disapproved by the Hon'ble Coordinate Benches and the Railways' challenges before the Hon'ble Supreme Court to the same were unsuccessful too, making those decisions final and binding.

10. According to the applicants, in the matter of appointment in the land losers' category, the applicable "Scheme" being RBE No. 99/2010 dated July 16, 2010 and the "Joint Procedure Order" (JPO) dated June 03, 2011 have not spelt about any age bar, or bar as regards requisite bare minimum educational qualification (except the ability to read and write), so also with regard to the physical ability. In that event while considering the respective cases of the applicants, the alleged contemnor has committed error. Not only that, it has acted beyond scope of the "Scheme" and "JPO", therefore rendering its own action as invalid. According to the applicants, the Division Bench directed the alleged contemnor, in orders dated June 19, 2023 and August 09, 2023, to comply with the order dated March 16, 2020 of the CAT, Kolkata Bench by adopting identical process as was adopted for the petitioners in WPCT 74 of 2016. It is submitted that no restriction on the basis of age, qualification or physical ability has been laid down, by this Court, in WPCT 74 of 2016, in its order dated February 08, 2019. Hence, according to the applicants, imposition of any kind of screening test to appoint a person in the land losers' category, stands to be in violation of the Court orders dated June 19, 2023 and August 09, 2023.
11. The applicants relied on several relevant judgments and orders which clearly support their case and establish their eligibility for appointment under the land loser category. The judgments are as follows:-

Lakshman Chandra Bhandary vs. Sunit Sharma CPAN 1258 of 2019 is a contempt petition filed in the Calcutta High Court concerning the failure of the Railway authorities to comply with a previous order regarding the employment of "land losers" for Railway projects. The petition highlights the petitioners' claims of non-compliance with directives to screen and appoint individuals

whose land was acquired. The petitioners alleged that the Railway authorities had imposed artificial barriers, such as age and educational qualifications, to deny appointments, despite similar candidates being appointed under relaxed conditions. The Court noted that 17 individuals had been appointed with relaxed educational qualifications, and it directed that the petitioners should be treated similarly in accordance with the order dated February 08, 2019. As of October 2023, the Court observed that the Railway authorities had complied with the contempt petition's orders in relation to other similarly situated individuals.

Buddhadev Senapati vs. Union of India WPCT 88 of 2023 is a notable order of the Calcutta High Court regarding land loser appointments in the South Eastern Railway. The Court held that a land loser who does not qualify in the Physical Efficiency Test (PET) cannot be denied appointment, provided they are otherwise medically fit for the role. The Railways submitted that candidates who fail the PET would still be considered for appointment based on medical tests, which are separate from the PET requirements.

Syed Monibur Rahim vs. Archan Joshi, The General Manager, South Eastern Railway WPCT 93 of 2023 is a writ petition linked to orders passed regarding personnel under the South Eastern Railway. The Court has reiterated that no objection can be raised regarding ineligibility in Physical Efficiency Test and overage. Similar position has been upheld in the orders of **WPCT 119 of 2023** (dated March 26, 2025) and **WPCT 121 of 2023** (dated July 28, 2025)

- 12.** The alleged contemnor is represented by Mr. Souvik Nandy, learned advocate. The counter argument advanced by Mr. Nandy inter alia is that, the alleged contemnor had duly complied with the order dated June 19, 2023 passed by the Hon'ble Division Bench by following the identical recruitment process adopted in

WPCT 74 of 2016. The compliance was carried out in accordance with the Railway recruitment rules applicable to the landloser category and in line with the principles laid down by the Hon'ble Supreme Court in ***Union of India v. Shankar Prasad Deep*** reported in **(2019) 16 SCC 286**. The apex Court has held that applicants would be entitled to an age relaxation of 15 years provided they fulfill all other prescriptions, including educational qualifications, appearing at the written test, minimum age requirements and medical fitness.

- 13.** It was further contended that most of the petitioners had participated in and qualified the Physical Efficiency Test (PET), and since some had already received appointments, the four separate writ petitions were not maintainable and the contempt applications should therefore be dismissed. The respondents also argued that the petitioners, having participated in the PET, could not subsequently challenge the selection process after being declared disqualified. The relied on the decision of the Supreme Court in ***K.H. Siraj v. High Court of Kerala (2006) 6 SCC 395*** wherein it was held that once petitioners have participated in the process, it is not open to them to contend that the criteria was not proper.
- 14.** Mr. Nandy, learned advocate also argued that the petitioners, having participated in the PET, could not subsequently challenge the selection process after being declared disqualified. Any grievance arising from refusal of appointment on grounds such as PET disqualification, overage or lack of educational qualification would constitute a fresh cause of action, which could not be adjudicated in contempt proceedings as the executing court lacked jurisdiction to entertain such claims at the first instance.

- 15.** Mr. Nandy, learned advocate in his argument has placed strong reliance on the compliance report submitted by the alleged contemnor dated December 14, 2023. He has submitted that, as per decision of the Supreme Court in ***Shankar Prasad Deep (supra)***, an applicant employed in the land losers' category is entitled to an age relaxation of 15 years; excepting the same the applicant as above, would be required to fulfill all other prescriptions including educational qualification, medical standard etc. as per the said direction of the Hon'ble Supreme Court. According to Mr. Nandy learned advocate, the "Scheme", "JPO" and the judgment of the Supreme Court as above has categorically fixed up the criteria for eligibility of a person for being appointed in the land losers' category in unequivocal terms. That, the steps taken by the alleged contemnor in compliance of the order of this Court dated June 19, 2023 are in due observance of the prescriptions/guidelines of the above.
- 16.** He says that, some of the applicants after having gone through the similar process have already been appointed. He informs that the present petitioners too have undertaken the tests so imposed by the alleged contemnor in terms of the "Scheme", "JPO" and the judgment of the Hon'ble Supreme Court. Since now, after having participated in the selection process and having been unsuccessful, they have come to challenge the same by way of taking out these contempt applications, he insists that those may be considered to be unsustainable and rejected.
- 17.** His further submission is that, in the order passed by the Hon'ble Division Bench in WPCT 74 of 2016 dated February 08, 2019, the Court has not enumerated any direction not to impose any eligibility criteria for the present applicants or any other person who claim to be appointed in the land losers' category. Therefore, he submits that, in accordance with the "Scheme" as well as

“JPO”, the judgment of the Supreme Court as above and the judgment of the Division Bench of this Court in WPCT 74 of 2016 the alleged contemnor has never been forbidden to test the minimum eligibility criteria of an applicant before appointing him in the land losers’ category. He says that those who have been able to succeed in the screening have already been given appointment. The petitioners having been not successful and, therefore, not been appointed cannot invoke the contempt jurisdiction of this Court on the allegation that there has been willful violation of the Court’s order by the alleged contemnor.

- 18.** For all the reasons as above, he insists that the present contempt applications may be dismissed.
- 19.** In contempt jurisdiction, this Court has a very limited scope only to go into the question whether the order of the Court has been violated by the alleged contemnor. If yes, whether the said violation is a result of intentional, deliberate and willful inaction of the alleged contemnor to comply with the order.
- 20.** The alleged contemnor in his compliance report dated December 14, 2023 has elaborately laid down as to how it has complied with the Court’s order dated June 19, 2023.

21. The status of appointment as divulged therein, may be reproduced below: -

WPCT 99/2023 Debi Prasad Ruidas & Ors vs. Vidya Bhusan & Ors	54 applicants involved	18 candidates appointed. 01 under medical examination. 01 temporarily unfit. 18 candidates disqualified in PET. 16 candidates disqualified in DV
WPCT 101/2023 Kalam Ali Mondal & Ors vs. Vidya Bhushan & Ors	12 candidates involved	08 candidates appointed. 02 candidates disqualified in PET. 02 candidates disqualified in DV (handwritten note: after giving 5 yrs relaxation).
WPCT 103/2023 Golam Hussain & Ors vs. Sanjay Kumar Mohanty & Ors	27 applicants involved	09 candidates appointed. 11 candidates disqualified in PET. 07 candidates disqualified in DV.

- 22.** The alleged contemnor has produced in tabular form as to how the directions of the Division Bench vide order dated February 08, 2019 in WPCT No. 74 of 2016 have been followed by the same which may also be reproduced below: -

Srl No.	Order of Hon'ble High Court in WPCT No. 74/2016	Compliance
i)	Within a period of 7 days from date of receipt of a copy of this judgement and order, the Chief Personnel Officer shall intimate the respondent No. 1, which of the documents are required for his end for ensuring placement of his claimed before the screening committee.	Since the appointments papers of 93 applicants who filed CPAN No. 1475/2023 arising out of WPCT No. 101/2023, CPAN No. 1480/2023 arising out of WPCT No. 99/2023 and CPAN No. 1484/2023 arising out of WPCT No. 103/2023 intimation to the respondent for documents are not required, since all the applications were available with S.E. Railway Administration.
ii)	Within a month of receipt of such intimation, the respondent No. 1 shall produce the necessary documents/papers before the Chief Personnel Officer and upon received of such documents/papers the claimed of the respondent No. 1 shall be placed before the screening committee for an appropriate decision.	All the 93 recruitment papers were placed before the screening committee who decided the eligible and non-eligible candidates.
iii)	Bearing in mind the fact that other land losers have been offer of appointment even upon attaining 47 years of age, we hope and trust that the screening committee shall not cite age bar as a ground for not considering the claimed of the respondent No.-1 and if a power of relaxation is indeed available to consider invocation of such power if the merits of the case so warrants.	In obedience to Hon'ble Supreme Court of India order dated 14.03.2019 in the case of UOI & Ors. Vs- Shankar Prasad Deep etc. in civil appeal Nos. 3030-3044 of 2019 (arising out of SLP (C) No. 696-710 of 2011) the relaxation of 15 years over the normal upper age limit prescribed for different communities have been considered. Thus UR candidates have been 48 years of age, OBC candidates having 51 years of age and SC & ST candidates having 53 years of age have been considered subject to fulfilment of other condition. On the basis of Hon'ble apex Courts Order one JPO was issued by this Railway vide JPO dated 05.10.2021 to take a uniform policy to deal with the land loser cases.
iv)	The entire exercise shall be completed as early as possible but not beyond June 30, 2019	The entire exercise of the order dated 19.06.2023 of WPCT No. 99/2023, 101/2023 & 103/2023 have already been complied.

- 23.** According to the alleged contemnor, 15 years age relaxation over the prescribed maximum community-wise upper age limit has

been allowed to the respective persons. That, as per RBE No. 31/2018, the condition of possessing minimum qualification of matriculation has been imposed since 1S grade pay did not exist any longer under the 7th Central Pay Commission and no one could be considered for employment in Railways who were not qualified in matriculation. The following table provided by the alleged contemnor in the said report dated December 14, 2023 would be helpful to understand the actual scenario.

Srl No	Description	Number of candidates
01.	Number of candidates involved in three WPCTs	93
02.	Number of candidates called for Document Verification	93
03.	Number of candidates qualified in Document Verification	68
04.	Number of candidates disqualified in Document Verification	25 (Non Matriculation -7, Over aged after relaxation of 15 years -11, Both non Matriculation and over aged -7)
05.	Number of candidates called for PET	68
06.	Number of candidates appeared in PET	68
07.	Number of candidates qualified in PET	37
08.	Number of candidates appointed	35
09.	Number of candidates yet to be appointed	02 (Under Medical examination-01 & Temporary Unfit-01)
10.	Number of candidates disqualified in PET	31 disqualified in 1000 Mtrs. run.

- 24.** This compliance report by the alleged contemnor is challenged by the petitioners on the ground that, imposition of minimum qualification or physical ability test has been in violation of the dictum of the Court. That, the alleged contemnor ought to have followed and complied with the order of the Court as it is and without imposing conditions as per their own whims and caprices as alleged.
- 25.** The order under contempt has not by itself prescribed any specific procedure to be followed by the alleged contemnor in appointing the applicants. It has directed that the procedure as prescribed by

the Hon'ble Division Bench in WPCT 74 of 2016 vide order dated February 08, 2019 is to be followed.

26. On careful perusal of the said order of the Hon'ble Division Bench, one can find that the Hon'ble Division Bench in that case has formulated its finding and opinion that, by not providing age relaxation, the respondent therein has committed breach and made out certain guidelines to fill up the said breach or lacunae. Nonetheless, it is understood from a careful perusal thereof that, the Hon'ble Division Bench was never of the view that, blanket appointment orders should be issued for a family member of the land loser, irrespective of any screening of their minimum eligibility. Age criteria is the sole factor considered by the Division Bench in WPCT 74 of 2016, which has however been given effect to by the alleged contemnor while considering the claims of the petitioners for appointment.
27. As a matter of fact, the Court cannot be unmindful of the finding of the Hon'ble Supreme Court in the case of **Shankar Prasad Deep (supra)** in which the Supreme Court categorically lays down the entitlement of the applicant to the age relaxation only and not with regard to any other prescription including educational qualification and medical standards.
28. This Court is of the considered opinion that, following the procedure laid down by the Division Bench of this Court in WPCT 74 of 2016 vide order dated February 08, 2019 does not *ipso facto* allow the alleged contemnor not to follow the guidelines or the judicial dictation with regard to the material issues.
29. In this regard, Clause 6 of the RBE No. 99/2010 dated July 16, 2010 (as relied on by the applicants) is worth noting which reads as follows: -

“6. General Manager of the Railway in whose jurisdiction the land acquisition is to be undertaken, shall be responsible for ensuring a fair and transparent selection of candidates.”

- 30.** The requirement of a fair and transparent selection process is embodied in the same. In such circumstances, the argument put forth by the applicants regarding non-applicability of any screening appears to be not acceptable. As a matter of fact, “Screening” by a standing Screening Committee has been provided in Clause 2 (iii) of the Joint Procedure Order dated June 03, 2011, as relied on by the applicants.
- 31.** It is also worth noting that the present applicants have taken part in the structured screening process introduced by the alleged contemnor but could not succeed. They are minority in number as against the majority number of applicants who have been allowed by the Court to be considered and ultimately after being successful in the screening process have been given appointment with the alleged contemnor.
- 32.** Fact remains that pursuant to the order of this Court dated June 19, 2023, the alleged contemnor has duly taken up the matter for consideration of the claim of the respective persons for being appointed, in the land losers’ category. In the process, certain screening methods have been applied which appears to be in terms of the Scheme and guidelines of the Department as well as the directions passed by the Hon’ble Supreme Court and the Hon’ble Division Bench of this Court. As a result, majority of the persons who have claimed to be appointed in the land losers’ category have crossed the hurdle and have been appointed in the said category with the alleged contemnor. Some could not cross the hurdle and tried their luck before this Court by filing the instant contempt applications.

- 33.** However, according to the considered opinion of this Court, no violation by the alleged contemnor of the Court's order dated June 19, 2023 or February 08, 2019 can be found and the reasons therefor have been elaborately discussed above. Therefore, there is no question of finding any intentional and willful disobedience by the said alleged contemnor in complying with the Court's order.
- 34.** For the reasons discussed above, this Court does not find any merit in the contempt applications filed by the applicants as mentioned above and those are liable to be dismissed.
- 35.** Hence, contempt applications Nos. CPAN 1475 of 2023, CPAN 1481 of 2023, CPAN 1564 of 2023, CPAN 1480 of 2023 connected with writ petitions nos. WPCT 101 of 2023, WPCT 103 of 2023, WPCT 98 of 2023, WPCT 99 of 2023 respectively are dismissed without any order as to costs.
- 36.** Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

I agree.

(Suvra Ghosh, J.)

(Rai Chattopadhyay, J.)