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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.463/2002

Thursday, this the 2nd day of January, 2003

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. Govindan S. Tampi, Member (A)

Shri Nagendra Nath Mishra
s/o Shri Yogendra Mishra
H.No.H-179, Karampura
Moti Nagar, New Delhi-15

..Applicant

(By Advocate: Shri B.S.Mainee)

Versus

Union of India through

The Chairman,
Railway Recruitment Board
Ajmer

..Respondents

(By Advocate: Shri R.L.Dhawan)

O R D E R (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan:-

This application has been filed by a candidate, who had appeared before the Railway Recruitment Board, Ajmer, respondent No.1, for appointment to the post of Goods Guard/Enquiry-cum-Reservation Clerk (ECRC).

2. The brief relevant facts of the case are that the respondents had issued Employment Notice/Advertisement against which the applicant had applied for the aforesaid posts of Goods Guard/ECRC. Shri B.S.Mainee, learned counsel has fairly submitted that at the time when the applicant filled the application form for the post, inadvertently column 15 of the form was not filled in by him. The Column 15 of the Form deals with the vision with glass or without glass, which the applicant was required to tick in the box~~s~~ provided therein. However, it is not disputed by the respondents that in spite of

the error on the part of the applicant in not submitting a complete application form for recruitment to the post, he was called for the required tests, namely, the preliminary test, written test and interview which were held on 1.10.2000, 4.2.2001 and 20.3.2001, respectively.

On 20.3.2001, when the respondents conducted the verification of documents, they had noticed that column 15 of the application form pertaining to vision had been left blank by the applicant. This fact is nowhere denied by the applicant. However, the respondents have stated that on the day of document verification, i.e., 20.3.2001, the applicant filled up column 15 with the date 20.3.2001 which was, however, not accepted by them.

3. On the above facts Shri B.S. Maine, learned counsel has vehemently submitted that column 15 is an innocuous column and the applicant had good vision without glasses and it was only an inadvertent error on his part in not completing the application form with respect to this column alone. On the other hand, Shri R. L. Dhawan, learned counsel relies on para 7 (ii) of the Employment Notice/Advertisement f[D the post. The relevant portion of para 7 reads as follows:-

"7. INVALID APPLICATION

The applications having any of the following deficiencies or irregularities will be summarily rejected.

- 7.1 (i) Application not submitted in prescribed format as given in this employment notice.
- (ii) Incomplete or illegible applications."

4. Another ground taken by the learned counsel for applicant is that in other advertisements issued by the

82

other Recruitment Boards of Railways, e.g., Mumbai, Bhopal and Allahabad, there is no such column corresponding to column 15, as prescribed by the respondents/RRB, Ajmer, regarding vision. He has, therefore, submitted that the applicant having passed the qualifying examination, his candidature should not have been rejected merely on the ground that he had not completed column 15 of the form prescribed by the respondents in this case as, according to him, nothing turns on this. He has submitted that the applicant had submitted a representation to the respondents firstly through the Hon'ble Member of Parliament on 3.7.2001 read with the letter on 19.7.2001, followed by a reminder addressed to the respondents dated 2.8.2001 to which he had not received any reply. Hence, this OA in which the applicant has sought a direction to the respondents to produce the records with the further direction to them to include his name in the final list of selected candidates/panel for the post of Goods Guard/ECRC.

5. Shri R.L.Dhawan, learned counsel has raised three preliminary objections, namely, (i) the territorial jurisdiction of the Principal Bench of this Tribunal to hear the matter; (ii) the Annexure A-1 annexed by the applicant, i.e., the Employment Notice/Advertisement issued by the respondents is incomplete and has left out the crucial para 7 (i) & (ii) which is what is relevant in this case; and (iii) the applicant has not exhausted the departmental remedies because, according to the respondents, no such representations, as mentioned above, have been received by them but only copy of these representations which were annexed in the OA.

6. On merits, Shri R.L.Dhawan, learned counsel has submitted that in view of the clear instructions to

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(4)

candidates contained in para 7 of the Employment Notice/Advertisement and admittedly as the applicant had not filled in column 15 at the time of submission of the application form, the OA should be dismissed. He has also drawn our attention to the averments in the reply that on account of non-fulfilment of column 15 in the application form, applications of other candidates in the same category have already been rejected and it would, therefore, give unfair advantage to the applicant if the OA is allowed on the ground urged by the learned counsel for applicant. Learned counsel for respondents has, therefore, equally vehemently submitted that the OA should be dismissed.

7. Regarding the preliminary objections raised by the learned counsel for respondents, we find no merit in the first objection. In the verification of OA, the applicant has submitted that he is resident of Karampura, New Delhi-15 and Shri B.S.Mainee, learned counsel has submitted that the applicant is working in a factory in Delhi and is residing here, as he is otherwise not employed elsewhere. Learned counsel for respondents has not brought any document or evidence on record to disprove this fact and we, therefore, have no reason to disbelieve the averments in the verification or the submissions made by the applicants ^{, counsel is}. Accordingly, the preliminary objection (i) is rejected.

8. Regarding, the preliminary objection (ii), no doubt, the copy of the advertisement annexed by the applicant as Annexure A-1 does not include para 7.

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(5)

However, we note that in the photocopy of the proforma of the application form, column 15 has been circled and underlined and there is a note stating that "this was left by me at the time of filling in the form". On perusal of the OA also, it is noticed that the applicant has stated that he had appeared before the Chairman, RRB, Ajmer, who had directed him to fill up the fresh form which he has complied on 20.3.2001. Besides, the whole thrust of the arguments by Shri B.S.Mainee, learned counsel is that the applicant's inadvertent mistake of not filling in column 15, though no doubt it was required to be filled in, was only an innocuous mistake for which he should not be penalized. Taking into account the totality of the facts and circumstances of the case, we are unable to agree with the contentions of Shri R.L. Dhawan, learned counsel that there has been any deliberate and wilful attempt on the part of the applicant to suppress the relevant facts in order to gain any undue advantage from the Tribunal. In this view of the matter, although the applicant ought to have been more careful to photocopy the entire or relevant portions of the advertisement, in the light of the pleadings in the OA, it cannot be held that he has suppressed or misled the Tribunal for any undue advantage or has adopted fraudulent means which will disentitle him to the reliefs. In this view of the matter, the preliminary objection (ii) is also rejected.

9. The preliminary objection (iii) was that the applicant has not exhausted departmental remedies as he has not submitted any representation to the authorities

(6)

or waited for a reply from the respondents before rushing to the Tribunal. The respondents have stated that they have not received any reference letters from any Hon'ble Member of Parliament or any representation from the applicant, ^{and} We do see merit in their further submission that in case the representation had been received through the Hon'ble Member of Parliament, they would have promptly acted in the matter by giving a prompt reply to him. However, it is noticed from the reply filed by the respondents themselves that they have stated that copies of representation dated 2.8.2001 and Hon'ble Member of Parliament's letter have been received along with the OA of the applicant as Annexures. Further, the respondents have also stated in their reply that on scrutiny of the application form on the day of the record verification, i.e., 20.3.2001, applicant's application was rejected on the ground of not filling in the necessary information in column 15. This is so in spite of the fact apparently that they had got the applicant to fill up this column on that day for whatever reasons, ~~as~~ the photocopy of the application form submitted by the applicant, annexed to the counter affidavit, clearly has this column entered by the applicant on that date, i.e., 20.3.2001. On that date, the applicant has ticked the box "without glass" regarding vision and signed it on that date. It is not clear under what circumstances the respondents have allowed the applicant to complete column 15 in the manner he had done on 20.3.2001. It is also not clear whether they have in fact issued any rejection letter to him in writing although such an averment has been made, followed by the fact that he has filled up the column. The

respondents, no doubt, have to keep in view these circumstances along with the facts they have submitted that with respect to other candidates in the same category, they have rejected their candidature on similar grounds. This is a matter of fact which the respondents will have to fully verify from their records.

10. It is relevant to note that this OA has not been admitted and even if, as stated by the respondents that they have received copies of the aforesaid representations from the applicant, including through the Hon'ble Member of Parliament, we consider that it would be proper for them to consider the matter afresh in accordance with relevant law, rules and instructions. There is also merit in the submissions made by the learned counsel for applicant that the omission of the applicant to fill up column 15 regarding vision may not be held against him, taking into account the fact which was also admitted by the learned counsel for respondents during hearing, that in any case before a selected candidate is appointed, he will have to be sent for medical examination and medical Board, if necessary. This should also be kept in view by the respondents. Respondents should also consider whether in the case of other candidates, who have similarly left out column 15 and whose cases have been rejected but have otherwise qualified, should also be reviewed in a similar manner. This is not to say that para 7 (i) & (ii) of the information to the candidates while filling the application form is not important and the stand taken by the respondents that as there were a large number of

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candidates, they were initially allowed to appear for the required test and interviews subject to verification. This procedure adopted by the respondents cannot be faulted and has been held valid by the Hon'ble Supreme Court. However, in the particular facts and circumstances of the case, we consider that it would be appropriate for the respondents to reconsider the issues referred to above, with regard to the candidature of the applicant for the post of Goods Guard for which post, he has otherwise been found eligible in accordance with law.

11. In this view of the matter, the OA is disposed of with the following directions:-

Respondents, i.e., the Chairman, Railway Recruitment Board, Ajmer shall consider the claim of the applicant for appointment to the post of Goods Guard for which he had appeared in the examinations conducted by the Railway Recruitment Board, Ajmer in the year 2001, taking into account the averments made by him in the present application together with the observations made above. This shall be done positively within a period of three months from the date of receipt of a copy of this order, with intimation to the applicant. In case, his candidature is being rejected, a detailed reasoned and speaking order shall be passed with intimation to the applicant. No order as to costs.

(Govindan S. Tampli)
Member (A)

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Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)