

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 83 of 2015

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

N.Rambabu aged about 37 years, S/o N.Narayan Swamy, Chinna Pudivalasa – Village, Fareedpeta – Post, Etchrela-Mandal, Srikakulam- District, Andhra Pradesh, Pin – 532410.

.....Applicant

VERSUS

1. Union of India, represented through the General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekharpur, Bhubaneswar, Dist.-Khurda.
2. Chairman, Railway Recruitment Cell, East Coast Railway, 2nd Floor, Rail Sadan, Chandrasekharpur, Bhubaneswar-17, Dist.-Khurda.

.....Respondents

For the applicant : Mr.N.R.Routray, counsel

For the respondents: Mr.M.B.K.Rao, counsel

Heard & reserved on : 3.2.2020

Order on : 06.03.2020

O R D E R

Per Mr. Gokul Chandra Pati, Member (A)

This OA has been filed by the applicant being aggrieved by the order of cancellation of his candidature for recruitment for the post of Junior Trackman and Helper-II advertised on 31.7.2012 by the respondents, seeking the following reliefs as under:-

- “(i) To quash the order of rejection dtd. 11.02.2015 under Ann.-A/7.
- (ii) And to direct the Respondents to issue appointment order in favour of the applicant in the post of Junior Trackman & helper-II;
And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice;

And for which act of your kindness the applicant as in duty bound shall every pray.”

2. The applicant, an OBC candidate, had applied for the posts and he was called to appear in the written test on 8.12.2013. He was called for document verification on 25.4.2014 with the community certificate. It is averred that the applicant was successful in the test for the post of Junior Trackman and Helper-II after written and PET test and document verification. Although he was medically found fit for the post of Junior Trackman, but his roll no was not included in the final merit list declared on 22.8.2014. He received a letter dated 11.2.2015 (Ann.-A/7) informing him that his candidature has been rejected on the ground of impersonation on the basis of the report of the GEQD.

3. It is averred that after the applicant cleared all the tests successfully and after verification

of documents, there was no scope to send the signature and handwriting to the GEQD. It is also stated that the impugned order dated 11.2.2015 (Ann.-A/7) did not disclose any details of the mismatching, for which that order at Ann.-A/7 is bad in law.

4. Counter filed by the respondents stated as under:-

“The in-house finger Print Expert (‘FPE’ for short), upon examination of documents resting with the applicant, opined that the LTI of the applicant available on different recruitment documents/papers were smudged and not fit for verification. After receipt of such report, the case of the applicant was referred to Government Examiner of Questioned Documents (‘GEQD’ for short) as per Railway Board letters referred to supra for examination and report. The GEQD vide its report dated 15-12-2014 concluded that the writing and signatures appearing in different documents did not match with the writings and signatures appearing in the application form. After receipt of such adverse report, the Railway Administration vide impugned letter dated 1-02-2015 cancelled the candidature of the applicant on the ground of impersonation.”

It is further stated that as per the terms and conditions of the advertisement at Annexure-R/1 of the Counter, the authorities can scrutinize the applications/documents any time and participation of the candidates in the various tests and document verification is provisional and his candidature be cancelled in case any deficiency is noticed. Paragraph 13 (ii) specified certain commissions and omissions of the candidate (including use of unfair means), which will attract cancellation of candidature. Reference was made to the instructions of the Railway Board circular dated 14.2.2002 (RBE No. 05/2002) to justify sending the details of the applicant to the GEQD for verification.

5. Rejoinder filed by the applicant states as under:-

“That in reply to Para-4 of the counter it is humbly and respectfully submitted here that if the writing and signature of the applicant in different documents and application form is different then he could have been given an opportunity either before referring the matter to GEQD or issuance of order dtd. 11.02.2015. In this case the Respondents at their own volition send the documents to GEQD and passed the order dtd. 11.02.2015 on basis of alleged negative report if any behind back of the applicant.

It is pertinent to mention here that the Respondents admitted that the writing and signature of the application form is different than the writings and signature appearing on the written examination answer sheet (OMR), PET call letter and document verification sheet. It is respectfully submitted here that if writing and signature appearing on written examination answer sheet (OMR), PET call letter and document verification sheet belongs to this applicant then the question impersonation does not arises.”

6. We have heard learned counsel for the applicant and the respondents. Learned counsel for the respondents filed a copy of the opinion of the GEQD in respect of the applicant showing mismatch of handwritings and signature. The order dated 11.2.2015 (Ann.-A/7) states as under:-

“2. While verifying your handwritings and signatures available on your original recruitment application form, written examination Answer Sheet (OMR), PET Call letter and document verification sheet, the Government Examiner of Questioned Documents (GEQD) concluded that the handwritings and signatures did not match with each other and hence, not of the same person. This concludes that you, with all probability, have resorted to impersonation in the recruitment process. And the verdict of the neutral GEQD on the issue is final and binding as per provisions.

3. As per extant rules and as mentioned at para 13(ii) of the Employment Notification, candidates found guilty of impersonation should be debarred either permanently or for a period as decided by the RRC/ECOR from any examination or selection conducted by all the RRCs/RRBs and also for appointment in Railways. Your such act also makes you liable to be prosecuted.

4. In view of the above, your candidature, therefore, is cancelled herewith.”

7. The respondents have justified the reference to the GEQD in view of the Railway Board circular dated 14.2.2002 (Annexure-R/2). It is seen that a similar matter was considered by Patna Bench of the Tribunal in OA No. 836/2015 in which there was mismatch of the candidate's signature and handwritings. The applicant in that OA was a candidate before the RRC, Digha Ghat, Patna and the report of the Finger Print Expert showed the mismatch of his had writing and finger print in various documents, for which his candidature was cancelled. It was held by Patna Bench vide order dated 30.5.2019 in the case of Omprakash Sah vs. The Union of India & Others in OA No. 836/2015 as under:-

“8. In view of the facts and circumstances of the case as also in view of the judgment rendered by the Hon'ble Patna High Court in the case of Manish Kumar Paswan [supra], we are of the considered opinion that this OA has no merit since during the course of verification process, discrepancies were noticed in the samples collected in the aforesaid four stages in respect of the applicant, therefore, all the documents pertaining to the applicant were referred to Finger Print Expert who opined that the left thumb impression of the applicant bearing Roll No. 1020310075 does not match with the thumb impression taken at the time of document verification and other stages.....”

8. In another case of Kamaljeet Singh vs. Union of India & Others in OA No. 3846/2014, the Principal Bench of the Tribunal, while considering a similar issue, it was held that taking into consideration the law laid down by Hon'ble Apex Court in the case of Karnataka Public Service Commission and Ors. Etc. Vs. B.M.Vijaya Shankar and Ors. (JT 1992(4) 348) and the report of the Finger Print Bureau, no interference is called for and the OA was dismissed.

9. In the circumstances, taking into account the earlier decisions of the Tribunal in similar circumstances as the present OA and the opinion of the GEQD which is an independent agency in the matter, we are also of the view that there is no reason for interference of the Tribunal in the matter. Accordingly, the OA is dismissed. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)