

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

LIBRARY

O.A. No.350/01486/2013.

Date of order : This the 20th Day of November, 2019

Hon'bleMrs. Bidisha Banerjee, Judicial Member

Hon'ble -Dr.(Ms) Nandita Chatterjee, Administrative Member



1. Srikanti Devi aged about 58 years
Widow of Late Ramanuj Singh
2. Chandan Singh, aged about 25 years
Son of Late Ramanuj Singh
Both residing at 14/1/B, B.M.N Lane,
Champdani, P.O. Baidyabati
Dist. Hooghly Pin 712 222.

.....Applicants

By Advocate Mr A. Chakraborty.

- Versus -

1. General Manager,
Metro Railway, Kolkata
Ministry of Railways,
33/1, J. L. Nehru Road,
Kolkata – 700 071.
2. Union of India,
Service through the Secretary,
Ministry of Railways,
New Delhi – 110 001.
3. The Chairman,
Railway Board; Railway Bhawan,
New Delhi – 110 001.
4. The Joint Director, Estt (N) II,
Railway Board, Railway Bhawan,
New Delhi – 110 001.
5. Chief Personnel Officer,
Metro Railway, Kolkata
Ministry of Railways,
33/1, J. L. Nehru Road,
Kolkata – 700 071.
6. The Deputy Chief Personnel Officer,
Metro Railway, Kolkata

Ministry of Railways,
33/1, J. L. Nehru Road,
Kolkata - 700 071.

5. The Assistant Personnel Officer,
Metro Railway, Kolkata
Ministry of Railways,
33/1, J. L. Nehru Road,
Kolkata - 700 071.

.....Respondents

By Advocate Ms D. Nag.



ORDER

MS BIDISHA BANERJEE, MEMBER(J)

This application has been preferred by the widow and the son of late Ramanuj Singh who died in harness on 02.11.2011 while serving as Motor Vehicle Driver Grade-III in Traffic Department, Metro Railway, Kolkata. The applicants are aggrieved as the respondents have denied employment assistance on compassionate ground to applicant No.2 on the ground that the Madhyama certificate that he holds does not make him eligible for consideration in Railway service.

2. Learned counsel were heard and materials on records were perused.

3. The admitted facts that emerge from the pleadings of the parties are that the widow had sought for employment assistance on compassionate ground for her son who had passed Madhyama examination from Bihar Sanskrit Board, Patna in the year 2005. According to the respondents the said Board was not recognized for the purpose of appointment in Railways. Although he was

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considered eligible but he could not be offered appointment in Group C in Grade Pay of Rs.1900/- without relevant School certificate. Letters were issued to him asking him to furnish Class-VIII passed educational certificate but he failed to do so.

4. It is an admitted fact that Bihar Sanskrit Siksha Board has been accorded Membership with effect from 05.10.2012 by the Council of Boards of School Education (COBSE). But since the applicant had acquired the qualification in 2005 when it was not recognized as such he was not considered eligible.

5. At hearing learned counsel for the respondents to justify the rejection, would place RBE No.76/2009, the subject matter whereof being as under :

"Recognition of certificates/qualifications awarded by West Bengal Board of secondary Education for the purpose of employment. [No.E(NG)-II/2008/RR-1/35 dated 30.04.2009]."

According to the said Board order COBSE in India has appraised that qualifications from some of the Boards are accepted for the purpose of employment and higher education and Bihar Sanskrit Shiksha Board is not included in the list.

6. To counter the allegation that the applicant deserved consideration, learned counsel for the applicant would place a decision of the Patna Bench of the Tribunal in O.A.41/2006, ***Madan Prasad vs Union of India & Ors.***, where, while relying upon a Bihar Government order dated 11.01.1999 issued by the Department of Secondary Education that the Madhyama Examination conducted by Bihar Sanskrit Shiksha Board would

be taken as Matriculation/Madhyamik Examination for entry into Government service, the Patna Bench directed the respondents to accept the candidature of the applicant as a successful candidate having held as under :



"Since the Bihar Sanskrit Board is a creation of Bihar Legislative Assembly, a degree issued by this Board cannot be refused recognition by the Railway Board or the Union of India.

We, therefore, are of the opinion that the Railway Recruitment Board had made a serious mistake in disallowing the applicant from being taken as a successful candidate only on this point. Since the impugned order at Annexure-A/6 does not mention any other ground for disallowing the applicant, we can presume that the only reason for disallowing him was the non recognition of the Bihar Sanskrit Shiksha Board and its certificate by the Railway Board.

We, therefore, direct the respondents to accept the applicant as a successful candidate. The impugned order at Annexure-A/6 [final result of the Railway Recruitment Board] so far as it relates to the applicant is quashed. The respondents are directed to send a communication on these lines to the applicant within two months of the receipt of this order. No costs."

While ordering supra, the Patna Bench had relied upon an earlier decision in O.A.16/2003 and had noted that the applicant had passed Madhyama from the Board on the basis of which he was allowed to appear in the written examination held on 07.02.2005 i.e. the qualification was acquired prior to 2004. The said order was upheld in **CWJC No.9460 of 2008** by the Hon'ble High Court at Patna. Hon'ble Court recorded the following :

"It appears that the Tribunal relied upon its earlier order dated 10th May 2004 passed in O.A.No.16 of 2003 and based on that, granted relief to the respondent.

Paragraphs 4 to 7 of the Tribunal's order read thus:

"The crucial point to be decided in this case is whether the Railway Recruitment Board was correct in rejecting the Madhyama Certificate of the applicant who



had passed this test with Sanskrit, English, Hindi, History and Geography. More or less a similar issue had come before the Patna Bench of the Central Administrative Tribunal in O.A.No.16 of 2003 and the Division Bench disposed of the O.A on 10.05.2004. While disposing of the O.A the Division Bench has observed "Bare perusal of the referred circular clearly envisages that degree of Madhyama granted by KSDSV, Darbhanga is equivalent to higher Secondary. Therefore, the said examination has been considered by Bihar Sanskrit Shiksha Board after 1983. Therefore, it can safely be held that the applicant possesses requisite qualification of matriculation for said promotional examination."

This order of the Patna Bench of Central Administrative Tribunal was upheld by the Patna High Court and the Hon'ble Patna High Court had noted that if a candidate has passed Uttar Madhyama with English as a subject, it can be considered as equivalent to Matriculation or Secondary School Examination.

Since the Bihar Sanskrit Board is a creation of Bihar Legislative Assembly, a degree issued by this Board cannot be refused recognition by the Railway Board or the Union of India.

We, therefore, are of the opinion that the Railway Recruitment Board had made a serious mistake in disallowing the applicant from being taken as a successful candidate only on this point. Since the impugned order at Annexure-A/6 does not mention any other ground for disallowing the applicant, we can presume that the only reason for disallowing him was the non recognition of the Bihar Sanskrit Shiksha Board and its certificate by the Railway Board.

We, therefore, direct the respondents to accept the applicant as a successful candidate. The impugned order at Annexure-A/6 [final result of the Railway Recruitment Board] so far as it relates to the applicant is quashed. The respondents are directed to send a communication on these lines to the applicant within two months of the receipt of this order. No costs."

We find no justification to have a view different from that of the Tribunal.

The writ petition is dismissed in limine."

The decision of the Hon'ble High Court at Patna when assailed before the Hon'ble Apex Court, the SLP was dismissed on 26.10.2009.



Learned counsel for the applicant would further place several orders of the Patna Bench holding that Madhyama is a recognized qualification.

7. Learned counsel for the respondents would vociferously oppose consideration on the ground that in a subsequent matter, the issue was raised and the issue whether Madhyama could have considered as a qualification equivalent to Matriculation is sub judice before the Hon'ble Apex Court. However, no order has been placed in support.

8. Having considered the rival contentions and having noted the tenor of the decision referred by the applicant including the one rendered by Guwahati Bench of the Tribunal in O.A.361/2012 on 07.11.2013, we are of the considered opinion that the applicant should not be deprived of consideration simply because he has acquired Madhyama qualification in 2005 albeit, which post 2012 has been recognized as equivalent to Matriculation for the purpose of employment in the Railways.

9. Hence we dispose of the O.A with a direction upon the authorities to consider the matter in the light of the decision of the Hon'ble Patna High Court in **Madan Prasad (supra)** and pass appropriate order within 3 months from the date of receipt of a copy of this order.

10. There shall be no order as to costs.

(DR NANDITA CHATTERJEE)
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)