

*(Reserved on 17.07.2020 for order on admission)*

*CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD*

This the 28<sup>th</sup> day of July, 2020

Present:

HON'BLE MRS. JUSTICE VIJAY LAKSHMI, MEMBER-J

HON'BLE MR. ANAND MATHUR, MEMBER-A.

**ORDER ON ADMISSION  
IN  
ORIGINAL APPLICATION NO. 330/00278/2020**

Himanshu Gupta.

.....Applicant.

**V E R S U S**

Union of India and Other.

..... Respondents

Present for the Applicant : Shri Siddharth Khare

Present for the Respondents: Shri Shesh Mani Mishra

**ORDER**

**Delivered by Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)**

This is a fresh O.A. which has been filed during the period of Unlock-2 and we have joined this Division Bench online through Video Conferencing facility for hearing on the point of admission.

2. We have heard Shri Siddharth Khare, learned counsel for the applicant and Shri Shesh Mani Mishra, learned counsel representing all the respondents, who has appeared on advance notice. Perused the record of present OA i.e. OA No. 278/2020 and also of OA No. 1023/2019, which has been clubbed with this O A, (both available in pdf. form).

3. The applicant had applied for the post of Technician (Signal and Telecom) under OBC category non-creamy layer. He appeared in first and second stage CBT examination. The result of the said examination was declared in which the applicant was found successful as he had secured 89.63579 % marks. He was short listed for document verification and medical examination and he received a call letter to appear for medical examination on 12.04.2019. However, he was denied to undergo medical examination on account of an objection with regard to mismatch of his hand writing on the declaration part of counter foil of his e-call letter with that on his document verification sheets.

4. Being aggrieved, the applicant filed OA No. 1023/2019 on 27.09.2019 with prayer to direct the respondents to permit the applicant to undergo medical examination and to appoint him on the post of Technician if he is found fit. The aforementioned O.A.( now clubbed with present O.A.) is pending before this Tribunal at the stage of completion of pleadings as no counter affidavit has been filed as yet.

5. On 06.01.2020, a show cause notice was issued to the applicant by the Chairman, Railway Recruitment Board (hereinafter to be referred as R.R.B. in short), requiring the applicant to submit his reply on the allegation of impersonation. The applicant filed the reply on 23.01.2020, however, his reply was not found convincing and satisfactory by the respondent authority and on 18.05.2020, the

Chairman, R.R.B passed the impugned order whereby the candidature of the applicant was cancelled and he was debarred from getting any appointment through any of RRB, all over India, for his entire life.

6. The abovementioned order dated 18.05.2020 has been challenged by the applicant in the present OA, with prayer to quash this order. One more relief, has been sought in the present OA by the applicant on the ground that on 29.12.2018, the applicant had applied for one more post, namely Chemical and Metrological Assistant (C.M.A) and he was declared successful in the same. On 02.03.2020, appointment order was issued to the applicant directing him to join the post of C.M.A. On 17.03.2020, an e-mail sent by the respondents, was received by the applicant asking him to join on 30/31.03.2020 at Baroda House, New Delhi. However, due to lockdown on account of Covid-19, the joining was deferred. On 08.06.2020 and 29.06.2020, new e-mails were sent by the respondents directing the applicant to submit his joining with relevant documents on 08.07.2020 with a further direction to furnish attestation form, of which, a copy was also sent through e-mail to the applicant and to report to C.W.M, Northern Railway, CB, Lucknow, for the purpose of training as C.M.A.

7. The applicant is aggrieved with para 12(h) of the aforesaid attestation form which requires the applicant to mention whether he has been debarred from any examination or not.

8. The contention of learned counsel for the applicant is that since the appointment order for the post of C.M.A has been issued on 02.03.2020, whereas the impugned order debarring the applicant for lifetime has been passed on 18.05.2020, i.e. subsequent to the appointment order to the post of C.M.A. it will not adversely affect the appointment of the applicant.

9. Learned counsel has further contended that merely on the strength of hand writing expert's report, a conclusive opinion has been formed by the respondents that the applicant has cleared the examination by impersonation. Learned counsel has contended that as per well settled legal position, the hand writing expert's report is not a conclusive piece of evidence. Moreover, biometric machine was used before entering into the examination hall in which thumb impression of the applicant was taken. There is no such report or finding on record that thumb impression did not match. It is next contended that the CCTV cameras were installed in the examination hall and the CCTV footage can very well disclose that the applicant had appeared in the examination. There is no such report that the photograph of the applicant affixed on Identity Card did not match with his face. Learned counsel has further contended that there cannot be a presumption that staff or employee or invigilator failed to correctly identify the applicant despite existence of Identity Card. However, the respondents without giving any opportunity of hearing to the applicant has debarred him for lifetime from getting any appointment in any of RRB all over India, against the principles of

natural justice, which has caused great prejudice to him. Learned counsel has lastly submitted that the present case does not fall in category of case of mass copying where exclusion of principle of natural justice has been judicially recognized.

Reliance has been placed on two recent judgments passed by Hon'ble Allahabad High Court in **Ranvijay Singh and 34 others Vs. Union of India – Writ (A) No. 2813/2017** with other connected cases, decided on 16.4.18 and judgment dated 08.05.19 passed in **Special Appeal No. 1045/2018**, filed against the aforementioned Writ petitions, whereby the Division Bench of Hon'ble Allahabad High Court, comprising of Hon'ble the Chief Justice, has under almost similar circumstances, dismissed the Special Appeal filed by Union of India.

10. **Admit.**

11. Issue notice. As Shri Shesh Mani Mishra has already appeared on behalf of all the respondents on advance notice, he is directed to file counter reply within a period of four weeks. Rejoinder, if any, be filed by the applicant within two weeks thereafter. This OA has already been clubbed with OA No. 1023/2019 vide order dated 15.07.2020, list this case alongwith OA No. 1023/2019 on 10.09.2020.

**(ANAND MATHUR)**  
**MEMBER- A.**

Anand...

**(JUSTICE VIJAY LAKSHMI)**  
**MEMBER- J.**