Original Application No.603 of 2020
(Rahul Kumar vs. Union of India)

(Hon'ble Mr. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Navin Tandon, Member (A)

Reserved on: 26.10.2020
Pronounced on: 20.11.2020

We have heard Shri Dharmendra Tiwari, Advocate for the applicant and Shri S.M. Mishra, learned standing counsel representing the respondents, on admission and on the prayer for interim relief and have perused the record.

2. The Railway Recruitment Board issued a notification for recruitment of various posts in North Central Railway, Allahabad. The applicant applied and appeared for the post of Assistant Loco Pilot. After qualifying the first phase of examination, he appeared in the computer based test and qualified the same. He was provisionally short listed for verification of documents/certificates and for medical examination and E-call letter was issued to him in the year 2019. The applicant appeared for document verification and was found fit. As everything was found fit at that time, the applicant was very much hopeful that soon he would get appointment in Railways. However, on 06.01.2020, he received a show cause notice wherein it was alleged that his handwriting specimen on E-call letter and on document verification sheet were found mismatching, which shows that he did not appear himself in the written examination and rather somebody else appeared on his behalf, therefore, it is a case of impersonations, malpractice and an offence. Accordingly, the applicant was called upon to submit his written explanation within

30 days to show the reason as to why his candidature may not be cancelled for the said examination and why he may not be debarred from appearing in all Railway Recruitment Board (RRB) and all Railway Recruitment Cell (RRC) examinations in future and further as to why a criminal action may not be initiated against him for being involved in malpractice so as to procure government job by fraudulent means.

3. On 13.01.2020, the applicant went to RRB Office at Allahabad and submitted his reply, vehemently denying the allegations levelled against him and requested for a test from an expert body on his own expenses. However, despite a lapse of long time, since the submission of applicant's reply to the notice dated 06.01.2020 and his visit to RRB office at Allahabad, no communication was received by the applicant. It was only after 04 months, on 18.05.2020 suddenly, the applicant received the impugned penalty order cancelling his candidature and debarring him for lifetime from appearing in the examination conducted by the RRB and RRC of Indian Railways.

4. Learned counsel for the applicant has contended that the respondents have held the applicant guilty of impersonation by placing implicit and blind reliance upon the expert's handwriting report treating the same as gospel truth without even supplying its copy to the applicant, despite his requests,.

5. It is further contended that now the issue is well settled and is no longer *res integra* that if a penalty has been imposed, without

supplying the candidate, the copy of the report of Forensic Examiner, the penalty order cannot be upheld. In this respect reliance has been placed on the judgment dated 16.04.2018 rendered by Hon'ble Allahabad High Court in **Writ (A) No.2813 of 2017 (Ran Vijay Singh and 34 others vs. Union of India & Ors.),** connected with a bunch of similar writ petition. The aforesaid judgment was also affirmed in **Special Appeal No.1045 of 2018 (Union of India vs. Ran Vijay Singh and Ors.) vide judgment and order dated 08.05.2019.** Some more judgments of Hon'ble Allahabad High Court, on this issue cited below, have also been referred by the learned counsel for the applicant.

> ***"(i) Tulasi Ram Prajapati vs. Union of India & another in Writ-A No.67228/2014.***
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> ***(ii) Bhupendra Singh vs. Union of India & Ors. in Writ A No.-35333 of 2016.***
>
> ***(iii) Satyendra Tomar vs. Union of India & Ors. in Writ A No.46446 of 2015."***

6. Learned counsel for the applicant has also drawn our attention to the observation made in Para-10 of the order dated 10.07.2019 passed by this Tribunal in OA No. 1374 of 2016, wherein it has been observed as under:-

> *"…… The main ground for believing that it was a case of impersonation is the handwriting report of the Government Examiner of Questioned Documents to whom handwriting in the application form as well as that taken at the time of written examination on OMR sheets were sent. We, therefore, also note that besides handwriting, thumb impression was also taken in the application form as well as on OMR sheets and at the time of physical efficiency test. It is widely acknowledged fact that the thumb impression is a much more reliable and credible proof of identity than the handwriting. This is more so as the examination of handwriting is more subjective and the handwriting itself of the same person changes over period of time. Hence, we believe that to put the matter to rest, the department may use the evidence of*

thumb impression which is available with them for confirming whether the person who appeared in the examination was the same as the applicant, or it was a case of impersonation. Such examination should put the matter beyond dispute. There is no mention in the counter affidavit filed by the respondents that such examination has been got done."

7. Learned counsel for the applicant has further contended that interim relief in same type of cases, has earlier been granted by this Tribunal in several OAs. Reference has also been made to the order dated 08.10.2020 passed by this Tribunal in OA No.206 of 2020 (Saurabh Singh Saini vs. General Manager, N.C. Railway) and OA No.1374 of 2016 (supra), in which the applicant was granted interim relief by permitting him to appear in the Railway Recruitment Examination with the condition that he could appear with the permission of the court and his appointment will be depend on the fate of the pending OA.

8. Learned counsel for the applicant has prayed that as the applicant is also a similarly placed candidate, he is entitled to have similar treatment on the ground of parity.

9. To the contrary, learned counsel for the respondents has vehemently opposed the prayer for interim relief by placing reliance on the Master circular of the Railway Department which provides for punishment and debarment up to lifetime for impersonation. He has contended that as the applicant has been found guilty of impersonation, due to mismatch of his handwriting on the documents, he has been rightly debarred for his lifetime from appearing in any RRB/RRC examinations.

10. In reply thereto, learned counsel for the applicant has again drawn our attention to one more order dated 29.10.2020, passed by this Tribunal on interim relief in **OA No.540 of 2020 (Alok Kumar Pandey vs. Union of India & Ors).** In the aforesaid case, the applicant was debarred for appearing in any RRB or RRC examinations for 07 years. In that case, interim relief was granted on the ground that before imposing such penalty on the applicant, neither a copy of the expert's report was provided to him nor any opportunity of hearing was given to him before debarring him to appear in any examinations of RRB/RRC for 07 years.

11. Having considered the rival contentions of learned counsel for both the parties and having perused the judgments and orders cited by learned counsel for the applicant, we are of the view that applicant has successfully made out a case for admission of the OA and also for grant of interim relief.

12. Accordingly, OA is admitted.

13. As Shri P.K. Rai, Advocate has appeared on behalf of all the respondents, on advance notice, there is no need to issues fresh notice.

14. Let counter reply be filed within 06 weeks. Rejoinder, if any, be filed within two weeks thereafter.

15. List on 27.01.2021 before Registrar's court for completion of pleadings.

16. Meanwhile, in case the applicant wants to appear in any examination conducted by RRB/RRC, he can appear with the permission of this Tribunal, however, his appointment will depend on the fate of final outcome of this OA.

(Navin Tandon)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

Sushil