

Reserved on 08.02.2021

Pronounced on 12.02.2021

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD**

Present:

Hon'ble Mrs. Justice Vijay Lakshmi, Member-J
Hon'ble Mr. Tarun Shridhar, Member-A

Original Application No. 1003/2019
(U/S 19, Administrative Tribunal Act, 1985)

Pradeep Kumar Mishra Son of Shri Ram Niwas Mishra, resident of 317/F, Shyam Nagar, Harhwa Phatak Road, near Chirag Dry Cleaners, Post Office Basaratpur, District Gorakhpur (U.P.)-273004.

.....Applicant.

By Advocate – Shri M.D. Mishra.

V E R S U S

1. Railway Recruitment Board, North Eastern Railway, Gorakhpur, through its Chairman.
2. Principal Chief Personnel Officer/General Manager (Personnel), North Eastern Railway, Gorakhpur.
3. Sri Rajeev Pandey Son of Sri Awadhesh Narayan Pandey, resident of Village Bhewali, Post Office Rewali, District Deoria, U.P., Pin Code-274602.

.....Respondents.

By Advocates : Shri Arun Kumar Gupta.

O R D E R

Delivered By Hon'ble Mr. Tarun Shridhar, A.M. :-

Shri M.D. Mishra, learned counsel for the applicant and Shri Arun Kumar Gupta, learned counsel for the respondents are present in Court.

2. Vide this OA the applicant has sought the following relief:-

"This Hon'ble Tribunal may be pleased to:-

- (i) Set aside the order dated 26.09.2017 passed by Chairman RRB, N.E. Railways Gorakhpur and communicated vide letter dated 19.12.2018 contained in Annexure-I to the Compilation-I.*
- (ii) Issue a direction to the Chairman RRB, N.E. Railway Gorakhpur, respondent no.2 to empanel the name of the applicant in the list of Selected General Candidates and to send the same to the General Manager (Personnel), respondent no.3 for issuing appointment letter and to direct the General Manager (Personnel), respondent no.3 to issue appointment letter to the applicant for the post of staff and Welfare Inspector with all consequential benefits;*
- (iii) Issue any other order or direction which this Hon'ble Court Tribunal may deem fit and proper."*

3. The brief facts of the case are that the applicant appeared in the selection examination for the post of Staff Welfare Inspector and he was declared successful in the said examination. However, no appointment letter was issued in his favour and the applicant approached the Hon'ble High Court of Allahabad. The Hon'ble High Court vide its order dated 02.11.2018 directed the authorities to consider the case of the present applicant and may offer him appointment if there is any vacancy and in a subsequent special appeal, the Hon'ble High advised him to seek the available alternative remedy before this Tribunal. In the meanwhile, the Chairman, Railway Recruitment Board i.e. Respondent No.2 had removed the name of the applicant from the panel of

successful candidates and in lieu the name of one Rajeev Pandey whose name figured in the reserved panel was recommended.

4. The grounds on which the name of the applicant was removed from the panel, is that the applicant had not mentioned the details of the fee submitted by him for appearing in the said examination, by way of mentioning the serial number of the Postal Order on his application form as was required.

5. Learned counsel for the applicant drew our attention to para No.25 of the counter affidavit wherein the respondents have categorically admitted that the applicant had submitted the examination fees. However, it was erroneously inferred in the absence of serial number of the postal order in the application form that the fees has not been submitted. They have also admitted the fact that he was issued the admit card for appearing in the examination and that he was successful in the examination. They have further acknowledged that the said fee has also been encashed but surprisingly expressed helplessness to correct the situation since offer of appointment has already been issued to the candidate next below the applicant. Further, the respondents in the counter state that the applicant could not be appointed now as the panel has expired and there are no vacancies.

6. Learned counsel for the applicant further argued that this is a specious argument as the fact of the applicant having paid the fee and its acknowledgment by the respondents and further encashment are admitted, so the applicant has fulfilled all the statutory and mandatory requirements. He has also drawn attention to the fact that the vacancy is still available as by their own admission the respondents have stated that the candidate next in merit namely Shri Rajeev Pandey has not reported for duty so far.

7. Learned counsel for the applicant also draws attention to the orders passed by Cuttack Bench of this Tribunal wherein the Tribunal held that minor technical errors in an application form should not act as an obstacle for a selection nor should they will be taken as a justification to deny an appointment especially if the candidate has successfully cleared the examination on merit. He also drew our attention to OA No. 594 of 2016, OA No.645 of 2016 and OA No.843 of 2016 and the order of the Hon'ble High Court of Rajasthan in the case of ***Sanjeev Kumar Saini vs Union of India & Another*** in Civil Writ Petition No. 11263 of 2014, Hon'ble High Court of Allahabad dated 29.10.2013 in Writ Petition No. 3283 of 2012 and Supreme Court dated 22.09.2008 in Civil Appeal No. 5766/2008 wherein Court and have similarly held that minor

discrepancies or technical faults should not stand in the way of giving appointment to the successful candidate.

8. Learned counsel for the respondents, on the other hand, vehemently argued that mentioning the serial number of the postal order on the application form was a statutory requirement and in the absence of the same the candidature of the applicant is liable to be rejected. He also points out that notification calling for applications clearly mentions that incomplete application could be rejected.

9. Having heard the counsels of both the parties and examined all the documents on record, we are of the view that the grounds for not offering of appointment to the candidate are too technical and seemingly harsh. The statutory requirement is payment of fee before sitting in the examination and this fee has admittedly been paid. The respondents have received and encashed the postal orders so the amount of fee for examination stands deposited in their account. Mere omission of the serial number of a postal order in the application form would be an unjust ground to remove the name of the applicant from the panel of successful candidates, a position he had attained on merit.

10. Although, the learned counsel for the applicant has given sufficient proof that a vacancy state exists as is evident from the copy of a letter of G.M., Personnel, Gorakhpur

annexed by the learned counsel for the respondents, in our view there are unassailable reasons for the applicant to be offered appointment and even if a supernumerary position for this purpose is to be created it should be done, because his selection has undisputedly been on merit. The omission on his part in the application form is too minor and does not in any manner affect the selection process; there is no statutory violation, and the stand taken by respondents is hyper technical.

11. The OA is, accordingly, allowed and the respondents are directed to issue an offer of appointment to the applicant within a period of four weeks from the date of receipt of a certified copy of this order. However, there are no orders as to cost or the consequential benefits the applicant has sought for. The date of appointment shall be prospective.

(Tarun Shridhar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

/Shakuntala/