

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

No. OA 388 of 2015

Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)
Hon'ble Mr. T.Jacob, Member (A)

Manoj Kumar Singh, aged 28 years, S/o Satrughan Singh, Village-Khutura, PO-Mushaiha, PS-Mohanpur, dist-Gaya, State – Bihar.

.....Applicant

VERSUS

1. Union of India, represented through General Manager, East Coast Railway, Railkunj, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
2. Chief Personnel Officer (Recruitment), Railway Recruitment Cell (RRS), 2nd Floor, South Block, Rail Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
3. Chairman, Railway Recruitment Cell (RRC), East Coast Railway, 2nd Floor, South Block, Rail Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.
4. Asst. Personnel Officer, East Coast Railway, 2nd Floor, South Block, Rail Sadan, Chandrasekharpur, Bhubaneswar, Dist-Khurda.

.....Respondents

For the applicant : Mr.N.Lenka, counsel

For the respondents: Mr.S.Barik, counsel

Heard & reserved on : 18.2.2021 Order on : 27.04.2021

O R D E R

Per Mr.Swarup Kumar Mishra, J.M.

The applicant has filed the present OA under Section 19 of the Administrative Tribunals' Act, 1985 seeking the following reliefs :

“(i) Let the original application may admitted, notices may be issued to the respondent and after hearing of the parties this Hon’ble Tribunal be pleased to quash the order No. ECOR/RRC/D/2012/DV dated 06.11.2014 issued by the respondent No.3 and further be pleased to direct the respondents to issue the order of appointment in favour of applicant immediately pursuant to the selection under taken vide employment notice dated 31.7.2012 vide Annexure-1.

(ii) And grant any other relief(s) the applicant entitled to and also pass such other order/orders as may be deemed fit and proper for the interest of justice.”

2. The facts of the case is that the applicant applied for the post of Trackman & Helper Gr.II against the notification darted 31.7.2012 issued by the respondents. The applicant appeared in the written examination held on

27.10.2013 and later appeared in the Physical Efficiency Test held on 18.2.2014. Based on the performance in both written exam and PET, the applicant was called for document verification on 28.3.2014. The applicant was waiting for appointment order but he was served with an order dated 6.11.2014 (Annexure-5) whereby he was informed that his candidature has been rejected on the ground that while verifying his Left Thumb Impression (LTI) available in his application with that on attendance sheet, the finger print examiner concluded that his finger print of original application and attendance sheet and verification sheet did not match and hence are not of the same person and with all probability the applicant has resorted to impersonation in the recruitment process. The application sought for information under RTI Act which included supply of the CD of the written test held on 27.10.2014, CD of PET held on 18.2.2014 and also the report of finger print expert. But the respondents vide their order dated 23.1.2015 (Annexure-6) informed that no CD of written examination is available, the CD of PET contain the entire PET and so it cannot be separated so far as the applicant is concerned and in respect of report of finger print expert, the respondents said that since it is a clarified document, it cannot be provided. In view of the above inaction on the part of the respondents, the applicant has filed the present OA challenging the order dated 6.11.2014 (Annexure-5) passed by respondent No.3 rejecting the candidature of the applicant.

3. The respondents in their Counter the applicant applied for the post of Trackman & Helper Gr.II against the notification darter 31.7.2012 issued by the respondents. The applicant appeared in the written examination held on 27.10.2013 and later appeared in the Physical Efficiency Test held on 18.2.2014. Based on the performance in both written exam and PET, the applicant was called for document verification on 28.3.2014. The Left Thumb Impression (LTI) and signature of the applicant was initially given by him on the recruitment application. LTI and signature were also taken during written exam, PET and during document verification. After completion of these three stages of the recruitment process, impersonation check was undertaken

through verification of recruitment application, written exam attendance, PET attendance and the verification sheet of document verification by referring to the Finger Print Examiner. The Finger Print Examiner's report indicated that the LTIs of the applicant available on the original application, attendance sheet and the verification sheet did not match with each other and hence, are not of the same person. Taking into account the report of the Finger Print Examiner, the cancellation of the candidature was informed to the applicant vide letter dated 6.11.2014 being found to be a clear case of impersonation. The respondents have submitted that the procedure adopted by them is not illegal or arbitrary and there is no malafide intention as alleged by the applicant. The respondents have also stated that the applicant is liable for prosecution for resorting to such fraudulent means during recruitment process. It is further stated that the designated official expert in the field had verified the questioned credentials and the mismatch among them was established in clear terms. It is also stated that in terms of Railway Board's letter dated 14.1.2009, where the anomalies in finger prints have been established beyond doubt by the Finger Print Expert, there is no need to send the questioned documents to any GEDQ. The respondents have therefore submitted that the applicant is not entitled to get any relief as prayed for in the present OA.

4. The applicant has filed a Rejoinder to the Counter filed by the respondents. In the Rejoinder the applicant has stated that while taking LTI of a candidate for any purpose simultaneously his signature was also taken. But the respondents have sent only the LTI of the applicant for verification except his signature. The applicant has also stated that in the Counter it is stated that the handwriting expert has given his view regarding LTI and not in respect of the signature and then it is clear that if the signature of the applicant in all documents at all stages are found to be correct, then there is no occasion on his part to impersonate his LTI. Moreover the applicant was also not given any opportunity of being heard and therefore the decision of the authority to send the LTI to hand writing expert and reject the candidature of the applicant on receipt of the views of the experts, is also not proper. It is also stated that

rejection of the candidature of the applicant on the ground of impersonation cannot be accepted under the premises when the report of the hand writing expert cannot be a basis to reject the candidature of a candidate already selected for a post.

5. We have heard both the learned counsels and have gone through the pleadings on record.

6. The applicant had applied for the post of Trackman & Helper Gr.II in Group 'D' category in pursuance to the advertisement dated 31.7.2012 (Annexure A/1). He has qualified in the written examination and was also found physically fit during the physical test and medical test. It was submitted by learned counsel for the applicant that to his utter surprise the applicant was intimated vide letter dated 6.11.2014 (Annexure A/5) whereby he was informed that his candidature has been rejected on the ground that while verifying his Left Thumb Impression (LTI) available in his application with that on attendance sheet, the finger print examiner concluded that his finger print of original application and attendance sheet and verification sheet did not match and hence are not of the same person and with all probability the applicant has resorted to impersonation in the recruitment process. Learned counsel for the applicant has further submitted that documents sought for by the applicant through RTI Act, including one CD to show that he has appeared in the written examination being physically present there on 27.10.2014, CD of PET held on 18.2.2014 and report of finger print examiner, have not been supplied to him. He has further submitted that no attempt was made by the respondents to arrive in any conclusion that step was taken to verify the signature of the applicant on the documents, in order to come to the conclusion that there is any impersonation.

6. Learned counsel for the respondents on the other hand submitted that as per Clause 13(2) of the advertisement vide Annexure A/1, the respondents department has rightly found that there was impersonation and therefore they have rightly intimated the applicant vide order dated 6.11.2014 (Annexure A/5) that his candidature has been rejected on the ground of impersonation.

7. It is seen that the report of the finger print examiner/expert has neither supplied to the applicant nor produced in this case from the side of the respondents. Besides that the basis on which the finger print examiner arrived at the conclusion that there might have been impersonation, has not been supplied to the applicant. It is not known that if the finger print examiner, who, as claimed by the respondents, had examined the finger prints in question is actually an expert in the line or not and if he is a retired GEDQ. Annexure R/2 shows that the department has decided to empanel some retired GEDQ for the purpose of engaging them in the examination of finger prints in connection with the recruitment examination. It is not known if the person who had examined the finger print in question in this case, was empanelled and was an expert in the field in question. In the absence of such averment and documents, this Tribunal cannot make any surmises and jump to the conclusion that finger print examiner was an expert. Besides that as the report has not been filed in this case and not supplied to the applicant, he is seriously prejudiced to make his stand on the vital point. If such document would have been filed, the applicant could have an opportunity to make his stand clear or clarify the matter. The same having not been done, this Tribunal finds that the applicant has been seriously prejudiced. Therefore the impugned order at Annexure A/5 cannot be sustained as the steps taken by the respondents are arbitrary and unreasonable.

8. Accordingly the respondents are directed to supply copy of the report of the finger print examiner to the applicant so that he can make his stand clear on the vital aspects and thereafter the applicant will be given an opportunity to make representation with regard to his candidature in question so that the competent authority/concerned respondent can dispose of the same by passing a speaking order and intimating it to the applicant.

9. Therefore the OA is allowed to such extent. There will be no order as to costs.

(T.JACOB)
MEMBER (A)

I.Nath

(SWARUP KUMAR MISHRA)
MEMBER (J)