

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/39/2015

Order reserved on 12.08.2021

DATE OF ORDER: 18.08.2021

CORAM

**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER**

Prince Kumar Son of Shri Ram Swarup Prasad, aged about 30 years, resident of Village & Post Mardar, District Khagdiya, Bihar - 851205. Aspirant for appointment to the post of Assistant Loco Pilot, under North Western Railway, Jaipur.

....Applicant

Shri C.B. Sharma, counsel for applicant (through Video Conferencing).

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Near Jawahar Circle, Jagatpura, Jaipur.
2. Chairman, Railway Recruitment Board, 210, Nehru Marg, Ambedkar Circle, Ajmer - 305028.
3. Secretary, Railway Recruitment Board, 210, Nehru Marg, Ambedkar Circle, Ajmer-305028.

.... Respondents

Shri Anupam Agarwal, counsel for respondents (through Video Conferencing)

ORDER

Per: Hina P. Shah, Judicial Member

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

"(i) That the respondents may be directed to accept the duplicate copy of OBC certificate or fresh original certificate issued in 2011 and taking into consideration of the same, applicant be allowed appointment to the post of Assistant Loco Pilot pay band Rs. 5200-20200 with grade pay Rs. 1900 from the date junior in merit allowed appointment by quashing letter dated 19/09/2014 (Annexure-A/1) with the letter dated 05/10/2012 & 02/08/2013 (Annexure-A/8 & A/13) with all consequential benefits.

(ii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

(iii) That the costs of this application may be awarded."

2. The brief facts of the case, as stated by the applicant, are that the Railway Recruitment Board, Ajmer had notified various vacancies vide Notification No. 01/2009 and further 01/2010 and the applicant being eligible had applied for the post of Assistant Loco Pilot (ALP). After scrutiny of his application form and documents, he was issued admission card to appear for written examination and he was found

successful in the said examination and thereafter he was called for document verification on 24.09.2011. Though result was declared but the result of the applicant was withheld and thereafter vide letters dated 24.08.2012 and 19.09.2012 was allowed provisional appointment to certain candidates. The respondent No. 3 vide letter dated 05.10.2012 informed the applicant that he failed to submit original OBC category certificate issued on 19.10.2008 and on 24.09.2011 while document verification and the applicant was directed to submit the original OBC certificates within 15 days and in response to that the applicant made request vide letter dated 01.02.2013 stating that original OBC certificate was lost and he has reported matter to local police and further he submitted duplicate OBC certificate signed in 2013 and also submitted fresh certificate issued in 2011. The applicant made request vide letter dated 29.06.2013 under RTI and vide reply dated 02.08.2013, respondent No. 3 informed the applicant that OBC Certificate dated 19.10.2008 in original has not been submitted as directed and further duplicate certificate submitted on 01.02.2013 has been signed on 28.01.2013, which is beyond the last date of

application called for and, hence, his candidature is rejected. But in spite of submitting the certificate, the respondents did not consider the case of the applicant for the post of Assistant Loco Pilot though those candidates whose results were withheld were given appointments. Thus, rejecting the candidature of the applicant on such ground though he was declared pass and had completed all formalities and thus not providing appointment to the applicant is arbitrary and unjustified and, therefore, the applicant has filed the present Original Application for redressal of his grievance.

3. a). The respondents filed their reply raising preliminary objection that the present Original Application is barred by limitation from the actual cause of action and the applicant has filed the present Original Application only in the year 2015 and, therefore, giving no reasons for delay to be condoned the present Original Application deserves to be dismissed on this ground itself. On merits, the respondents state that despite enclosing photocopies of the documents along with application form for the post of Assistant Loco Pilot, the applicant failed to

produce the same during document verification. He was issued notice vide office letter dated 05.10.2012, (Annexure R/1), to submit the original caste certificate of the self attested photocopy enclosed with the application form within 15 days from the date of the letter, failing which his application form shall be deemed as ineligible and his candidature shall be deemed to be treated as cancelled in accordance with the conditions laid down in Para 7.07, 1.01 and 12.05 of CEN No. 01/2010.

b). As per para 1 of the General Instructions with sub para 1.01 and 1.14 of CEN 01/2010 before applying for the post, the candidate should ensure that he/she fulfils all the eligibility norms. The candidates who indicate their community as SC or ST or OBC in their application form but do not enclose the caste certificate in the prescribed format will not be considered as eligible to appear for the examination. As per para 7.07 of CEN No. 01/2010, during document verification, the candidates will have to produce their original certificates. No additional time will be given and the candidates not producing their original certificates on the date of verification is liable

to be forfeited. Further as per instructions given in para 12.04 & 12.05 of CEN No. 01/2010, RRB reserves the right to conduct additional written examination, document verification at any stage. RRB also reserves the right to cancel part or whole of any recruitment process at any stage for the category notified in this Centralized Employment Notice without assigning any reason thereof. The decision of RRBs in all matters relating to eligibility, acceptance or rejection of the applications, penalty for false information, etc. will be final and binding on the candidates and no enquiry or correspondence will be entertained by the Railway Recruitment Board in this regard.

c). Mere reiteration of the same under RTI by answering respondents do not give a fresh cause of action as prior to it, the candidature of the applicant was cancelled. Even the fact of reporting the matter to police authorities is not substantiated. Hence, rejection of the candidature of the applicant is just and legal as any action in pursuance of the notification cannot be said to be illegal or unwarranted.

4. The applicant has filed rejoinder rebutting the submissions of the respondents. He further stated that in response to the letter dated 05.10.2012, the applicant had again obtained the certificate of 2008 but as the same was only obtained in 2013 and signed in 2013 by the competent authority, both the certificates are submitted by the applicant with request dated 01.10.2013, but the respondents without any base cancelled the candidature of the applicant and kept the applicant away from the benefits of appointment. With regard to limitation, the applicant stated that with regard to letter dated 05.10.2012, the Original Application filed by the applicant is within limitation as he has submitted certificate as desired by the respondents with signature vide letter dated 02.08.2013. As the applicant was qualified and eligible for the post of Assistant Loco Pilot and had submitted the required documents and only thereafter he was allowed to go through the examination and also he had submitted the certificates as required in the prescribed proforma and, therefore, the applicant is entitled for appointment. Thus, the action of the respondents is liable to be set aside.

5. We have heard learned counsels for the parties at length through Video Conferencing and examined the pleadings minutely.

6. The applicant and the respondents reiterated their submissions as stated earlier.

7. The question which requires our consideration is whether in selection process of 2010, the applicant has any right to be considered in absence of any vacancy and in absence of impleading necessary parties who are likely to be affected by his appointment and also when rules were clearly mentioned in the advertisement.

8. After hearing the parties and perusing the pleadings, the factual matrix of the case is that the applicant had filled the application form for the post of Assistant Loco Pilot in pursuance to the advertisement No. 01/2010 and on being found eligible, he appeared in written examination and aptitude test. He was thereafter called for document verification in the office of RRB, Ajmer on 24.09.2011 and at that juncture it was noted by the respondents that the applicant has

failed to produce the Original Caste Certificate belonging to OBC (Koiri) community no. 464 dated 19.10.2008 issued by the Anumandal Padadhikari, Khagaria, original Marks Sheet of Secondary School Examination 2002 bearing S.No. 0179984 Reg. No. 0251-006-01663-01 issued by Bihar School Examination Board, Patna and Marks Sheet of Provisional National Trade Certificate Training at ITI Begusarai in the trade of MMV issued on 15.10.2007 (19.12.2007) bearing No. 009868, as such self attested photocopies of the certificates enclosed by the candidate along with his application form dated 15.05.2009 could not be verified as required vide para 7.07 of CEN No. 01/2010. As such the candidate not fulfilling the requisite eligibility on the date of submission of the application form and on failure to produce the originals, he was served with notice vide office letter dated 05.10.2012 to submit the original within 15 days from the date of the letter, failing which his application form stands deemed to be treated as ineligible and his candidature stands deemed to be treated as cancelled in accordance with the conditions laid down in Para 7.07, 1.01 & 12.05 of the CEN No. 01/2010 and, hence, his candidature was

cancelled. He, however, produced another self attested photocopy of caste certificate belonging to OBC (Koyri/Kushwaha) certificate bearing No. 55 dated 03.09.2011, another self attested marks sheet of Provisional National Trade Certificate of ITI in the Trade MMV issued on 21.12.2008.

9. As noted by us, the applicant thereafter made an RTI application dated nil received by respondents on 04.07.2013 which was replied by office letter dated 02.08.2013 (Annexure A/13). Again his application dated nil was received on 20.08.2014 under RTI which was replied vide office letter dated 19.09.2014 (Annexure A/1). This proves the bonafide attitude of the respondents as the applicant has suppressed this aspect. Admittedly, he made his first request on 01.02.2013 while the notice was served on 05.10.2012. Even if we accept his submission of duplicate certificate but that too he has submitted only on 28.01.2013 which is clearly after the period prescribed as per the notice dated 05.10.2012. Subsequent to the conclusion of the selection which took way back several years ago and the fact that the applicant was very well aware of the conditions of the

notification, he has undergone the said selection process and now when he is not appointed, he is himself to be blamed for the cause for failure to submit the original certificates as required and, thus, he cannot now approbate and reprobate as per the principle of estoppel. Thus, it is clear that the applicant failed to produce the Original Caste Certificate No. 464 dated 19.10.2008 signed by Anumandal Padadhikari, Khagaria and Marks Sheet of Provisional National Trade Certificate of ITI in the Trade of MMV issued on 15.10.2007 during document verification held on 24.09.2011 held in the office of RRB, Ajmer as required vide Para 7.07 of CEN No. 01/2010. The fact about original Caste certificate being lost cannot be accepted in absence of any proof to substantiate his claim. As per the Notification No. 01/2010 as is clear that failure to produce original documents during document verification or as extended by the notice, his candidature will be deemed to be cancelled by treating his application form as ineligible. He has never raised any objection regarding conditions of the Notification and as such he has no right to challenge his rejection. It is also to be noted that the selection process so initiated has

already been concluded on 01.10.2011 by declaration of result of 672 candidates in newspapers vide RRB letter dated 01.10.2011 and the same was also uploaded on the website of RRB and, therefore, any challenge for the reliefs prayed by the applicant cannot be accepted.

10. After going through the case of the applicant, it is clear that the applicant had been given enough opportunities by the respondents to submit the Original certificates within the time frame as required during document verification from his side, but the applicant himself failed to produce the relevant documents even after the notice served on him on 05.10.2012 and he has submitted the duplicate certificate much after on 28.01.2013. But as seen, the appointments have already been carried out a decade ago. The applicant has failed to make the affected persons as party respondents against whom he can seek appointment. Also in the case of the applicant as he has no protection from the Court, in absence of any vacancy, therefore, directing the respondents allowing a person at this stage to accept the original certificates will cause prejudice to the person/persons

whose appointments have to be disturbed. Though the present Original Application is barred by delay and laches, but in the interest of justice, the said delay is condoned. Even if we go into merits of the case, it is clear that the applicant has no right for the said post in question when rules were clear and he was required to be cautious in submitting the Original certificates during document verification and, therefore, he is himself responsible for the consequences and even on the same ground for non-submission of original documents during document verification, several applications have been rejected. Also in absence of any vacancy and absence of affected parties being made party respondents, without they being heard, no orders can be passed to that effect. Thus, in given circumstances, it cannot be said that the impugned orders in challenge passed by the respondents dated 19.09.2014, (Annexure A/1), along with letters dated 05.10.2012, (Annexure A/8), and 02.08.2013, (Annexure A/13), are arbitrary or illegal.

11. As far as the judgment of the Hon'ble Supreme Court, relied by the applicant, in the case of **Ram Kumar Gijroya vs. Delhi Subordinate Services**

Selection Board and another, reported in (2016) 4 SCC 754, cannot be made applicable to the present case as in the said case the applications of the candidates were rejected as they failed to submit the OBC Certificate issued by the appropriate authority along with the application form before the last date of submission of the application form. In the present case, the candidate was supposed to submit the Original certificates during document verification and on failure to produce the same within the time frame, they were served with notice and even in the extended period, the candidate if he fails to comply with the requirement, the respondents cannot be expected to wait for indefinite period and they cannot be compelled to unfill the vacancies as mentioned in the Notification/Advertisement. Therefore, the action of the respondents cannot be said to be unjustified or illegal.

12. We are in agreement with the order dated 19.12.2018 passed by this Bench of the Tribunal, relied by the respondents, in the case of **Premjit Kumar vs. Union of India Anr.**, (OA No. 322/2012),

wherein this Tribunal in identical case, in para 9 has held as under:-

“9. In the result, the inescapable conclusion that arises is that because the OBC certificate submitted by the applicant at the post provisional selection stage during the process of verification of documents, even if authentic, was submitted beyond the time allowed for such submission in terms of the judgment of the Delhi High Court in the case of Ms.Pushpa, (supra), non-acceptance of this late submission by the respondent authority is not, as per the principle laid down by the Apex Court in the case of T. Jayakumar vs. A. Gopu, (supra), within the scope of judicial review. Consequently, this OA fails for want of merit and is dismissed.”

13. In view of the observations made herein-above, the action of the respondents does not warrant any interference as the action of the respondents is just and proper and, accordingly, the present Original Application is dismissed. No order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER