

OA No. 291/634/2017

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/634/2017

Order reserved on 05.07.2021

DATE OF ORDER: 09.07.2021

CORAM

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

Gaurav Kumar S/o Shri Ghasi Lal Bairwa, aged about 24 years, by caste Bairwa (SC), R/o 10/20, Malviya Nagar, Jaipur. Applicant has applied for the post of (A.S.M) R.R.B. Ajmer.

....Applicant

Shri R.D. Meena, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
2. Chairman, Railway Recruitment Board, Ajmer, 2010, Nehru Marg, Ambedkar Circle, Ajmer-305028.

....Respondents

Shri Anupam Agarwal, counsel for respondents.

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) quash and set aside the final result dated 24.11.2017.
- (ii) The respondents may kindly be directed to correct the father's name of the applicant and issue fresh final result;
- (iii) The respondents may also be directed to allow the applicant to participate in the further selection process i.e. Medical examination and if he found suitable for the post of ASM, he may be given appointment on the said post with all consequential benefit.
- (iv) Any other directions and orders, which are, deem proper in the facts and circumstances of the case may kindly be allowed to the applicant."

2. The brief facts of the case, as stated by the applicant, are that the respondents had issued Centralized Employment Notice No. 03/2015 for several posts including the post of Assistant Station Master (ASM) for which post, the applicant, being qualified as B. Tech., had applied for the same online in SC category through E-mitra. He was issued E-call letter for online examination held on 30.04.2016 and applicant appeared for the same and when result of the same was declared, it came to the knowledge of the applicant that in the application form, his father's name has been wrongly mentioned as Gaurav Kumar in place of Ghasi Lal Bairwa. He immediately submitted representation to respondents through E-mail on 09.12.2016 for correction in his father's name

and same was replied by respondents through E-mail that details filled in application form cannot be modified now and the same can be done after clearing all stages if called for document verification. The applicant qualified 1st stage, 2nd stage, Aptitude Test and he secured 72.18266 score (B+C) and overall rank in Aptitude Test was 999 and he was shortlisted for document verification, for which he was issued a call letter (Annexure A/9). In the said call letter in condition No. 2 (xv), it was specifically mentioned that in case of variation in spelling in name, father's name in on-line application and original certificates/documents, candidates are required to submit relevant affidavit executed before Magistrate or Notary on required stamp papers stating that the referred person in certificate(s) is one and the same on the date of verification. In the final result declared on 24.11.2017 (Annexure A/1), though applicant secured more than the cut-off marks in his category for the post of ASM, but his roll number had not been included in the same. The applicant again represented on 27.11.2017 (Annexure A/11) for non-inclusion of his name in final result though he secured more than the cut-off marks and that respondents had not

assigned any valid and justified reason for the same. Therefore, being aggrieved by the inaction of the respondents in non-inclusion of the name of the applicant in the final result for the post of ASM, he has approached this Tribunal for redressal of his grievances.

3. The Tribunal vide its order dated 14.12.2017 had issued notices to the respondents and had passed interim orders to the extent that respondents were directed to keep one post of ASM in NWR vacant.

4. The respondents filed their reply stating that the applicant admittedly filled his father's name incorrectly in the application form. The applicant also did not avail the opportunity to modify the application as per sub para 13 of the online application by paying a fee of Rs. 100/- and, therefore, he himself is responsible for the lapse. Also as per para 5.02 Note -II of the notification, it was clearly mentioned that, 'candidate should ensure that their name, father's name, date of birth should exactly match as recorded in matriculation or equivalent certificate and any deviation found during document verification would

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lead to cancellation of candidature and also to debarment'. Therefore, any submission of the applicant taking plea of E-mail is wholly misconceived and applicant cannot have any grievance on the said basis. As applicant could have himself applied and putting blame on E-mitra is of no substance. As per the notification, he should have taken print out of the acknowledgement after submission of his application and could have rectified his mistake, but he failed to avail such opportunity and, therefore, he himself is responsible for his negligence. The stand taken by the applicant that he had qualified at all stages and, therefore, he is eligible to be appointed as he has secured more than the cut-off marks is denied as a candidate has to be eligible and entitled to be appointed as per rules and for which he has to be found fit in all respects. It was further stated that as per para 14.02, "RRB reserves right to reject the candidature of any applicant at any stage of the process of recruitment, if any irregularity/deficiency are noticed in the application". Therefore, the applicant also has no claim for the said post and the present O.A. deserves to be dismissed on the said ground itself and the interim order dated 14.12.2017

be vacated as their action is in consonance with the rules.

5. The applicant has filed a rejoinder rebutting the submissions of the respondents. He further stated that as he belongs to SC category, fees of Rs. 100/- is not applicable to him and as he has already applied for correction in his father's name, therefore, there is no fault on his part and the contention of the respondents that applicant failed to avail the opportunity to modify the application does not hold any merit as the applicant as per sub-para 13 of the steps has submitted correction in on-line application. Applicant further clarified that he immediately submitted a representation through E-mail on 09.12.2016 and also submitted a representation dated 08.09.2017 along with his Affidavit duly executed and, therefore, his bona-fide mistake was required to be corrected by the respondents. The applicant relied upon several judgments to support his stand that a bonafide mistake which does not affect a third party should be allowed to be cured and the mistake committed by computer operator of E-mitra is a bonafide mistake

and, therefore, the same is liable to be cured in the interest of justice.

6. We have heard the learned counsels for the parties at length through Video Conferencing and examined the pleadings minutely as well as the judgments cited by the parties.

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

8. After hearing the parties and perusing the pleadings, the factual matrix of the case is that the applicant being an SC candidate had applied for the post of Assistant Station Master (ASM) after fulfilling the criteria as required and also secured 72.18266 marks whereas the cut off marks in SC category was 71.08189. He had cleared all the stages including Aptitude Test and was also called for document verification. The application form which was filled online was by E-mitra and there was a bonafide mistake in father's name which was filled as 'Gaurav Kumar' instead of 'Ghasi Lal Bairwa'. When result of the first stage examination was declared, it came to

the knowledge of the applicant that in place of his father's name, his name was shown, immediately applicant submitted representation to the respondents through e-mail on 09.12.2016 for correction of his father's name and also in pursuance of the call letter dated 12.08.2017, submitted representation dated 08.09.2017 along with Affidavit dated 04.09.2017 executed before Magistrate for correction in his father's name as 'Ghasi Lal Bairwa'. As he was SC candidate, he was exempted from paying Rs. 100/- for making any changes in on-line application form. Even after declaration of final result on 24.11.2017 as the name of the applicant was not found and though he secured more than the cut off marks, he again submitted representation dated 27.11.2017 (Annexure A/11) for rectification of a bonafide mistake as instead of his father's name, his name was shown as name of father.

9. After going through the case of the applicant, it is clear that a bonafide mistake has happened in the case of the applicant while filling the online application form by E-mitra as in place of name of father, 'Ghasi Lal Bairwa', the name of applicant 'Gaurav Kumar' was

wrongly shown. When 1st stage result was declared, it came to the knowledge of the applicant and he tried to get the said mistake rectified which was not permitted by the respondents and it was replied by respondents on E-mail that the same can be rectified only after completion of all stages and only when the candidate is called for document verification. The applicant again represented for the said correction and submitted the same along with an Affidavit duly attested by a Magistrate and he did the same but was not supposed to pay Rs. 100/- as he belonged to SC community. As seen, the respondents failed to take a note of the said correction under the garb of rules and did not consider the case of the applicant on the basis of incorrect name of father which was wrongly mentioned by the applicant. It is clear that a human error can be rectified provided no third party right is affected and we are in agreement with the order, relied upon by the applicant, dated 01.11.2017 passed by the Hon'ble High Court of Rajasthan, Jaipur Bench, Jaipur in the case of **Kavita Choudhary vs. The Registrar (Examination), Rajasthan High Court, Jodhpur & Anr.** in D.B. Civil Special Appeal (Writ) No. 1700/2017, wherein it has been held that a bonafide

mistake which does not affect a third party should be allowed to be cured and rectification of a mistake would cause no prejudice. In the said order, reliance was placed on several judgments/orders including judgment/order in the case of State of Rajasthan vs. Datar Singh (D.B.S.A.W. No. 875/2012) dated 31.07.2013 and judgment/order in the case of Dinesh Kumar Mahawar vs. RPSC & Ors. (S.B.C.W.P. No. 7159/2017) dated 11.10.2017. Reliance was also placed in an identical matter of Shimala Jat vs. State of Rajasthan & Ors. in S.B.C.W.P. No. 906/2017, order dated 27.01.2017, wherein in a similar matter the Hon'ble High Court of Rajasthan, Jaipur Bench, Jaipur had considered it appropriate to grant indulgence in case of the petitioner since it was not going to affect the rights of either party or third party and directed the respondents to carry out the correction as desired by the petitioner and consider her case in further process of selection.

10. It is trite law that even in administrative matters, if decision adversely affects a person's legal right or interest, the decision must be taken fairly and reasonably. Even in absence of any provisions for

giving an opportunity, the principles of natural justice is inbuilt. Though it is true that the advertisement clearly stated that the candidates to be cautious in filling online applications and any mistake/error would debar such applications, but due to the bonafide mistake on the part of the applicant which he tried to rectify the same by representation along with Affidavit within reasonable time, the respondents should have allowed the said correction, but the same was not done. It is clear that while filling the form, human error cannot be completely ruled out and the applicant therefore should not be penalised so harshly for such an error. A candidate whose marks are above cut off marks or is in merit deserves an opportunity before his candidature is rejected only on some error. As such, in the present case, the bonafide mistake committed in father's name by the applicant in filling the application form by E-mitra deserves to be rectified/corrected.

11. In view of the observations made above, the action of the respondents calls for interference and, therefore, they are directed to permit the applicant to carry out the necessary correction in his father's name

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and pass appropriate orders in that respect and, accordingly, allow the applicant to participate in further selection process i.e. medical examination and if otherwise he found suitable for the post of ASM, he may be given appointment on the said post with all consequential benefits. The said exercise be carried out within three months from the date of receipt of a certified copy of this order. No order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

Kumawat