

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.242/2014

Reserved on:26.08.2021
Pronounced on:02.09.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs.Hina P. Shah, Member (J)**

Pinkesh Meena S/o Shri Lohare Ram Meena, aged 25 years, R/o Village Shyampur Moondari, Post Mahu, Tehsil Hindaul City, Distt. Karauli (Raj.).

...Applicant.

(By Advocate: Shri R.D.Meena)

Versus

1. Union of India through Secretary, Railway Recruitment Control Board, Ministry of Railways (Railway Board), New Delhi.
2. Chairman, Railway Recruitment Control Board, North Western Railway, Durgapura Railway Station, Jaipur.
3. General Manager (Personnel), Railway Recruitment Control Board, North Western Railway, Jawahar Circle, Jaipur. ...Respondents.

(By Advocate: Shri Anupam Agarwal)

ORDER

Per: Dinesh Sharma, Member (A):

In this OA, the applicant has prayed for declaring the action of the respondents by which they have rejected the candidature of the applicant on ground of the darkened circles of the original OMR (Optical Marks Reading) Sheet not tallying with the darkened circles of Carbon Copy of this

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sheet. The applicant states he has obtained more than the cut-off marks required, was declared successful in the examination, was called for Physical Efficiency Test, for document verification and for medical examination. However, after that, on inquiry on the Internet, he found his result was withheld. Since no information was received after that, he made queries under the RTI Act. Following that, he has been informed by letter dated 11.03.2014 (Annexure-2) that his candidature has been rejected due to the darkened circles on the Original OMR Sheet not tallying with the Carbon Copy. It was also informed that he had obtained 65.32% marks, while the cut-off for his category (ST) has been 61.05 marks. The applicant has questioned the rejection as illegal, arbitrary, and against the principles of natural justice. He has stated that the discrepancy between the Original OMR and the Carbon Copy could be a result of the two not being attached properly and this is no fault of the applicant. Rejecting the candidature of the applicant, when he had come out successful at all the other stages, shows arbitrariness and mala-fides and hence this OA.

2. The respondents have filed reply stating there were specific instructions not to detach Original OMR Sheet from the Carbon Copy. The reply admits the claims of the applicant about his having been declared successful in the

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examination, Physical Efficiency Test and medical examination. However, it states that mere passing in these tests is not the proof of selection and appointment and the candidature is subject to several other conditions. The candidature has been rejected due to differences in circles of the Original OMR Sheet and its Carbon Copy. The matching of the Original OMR Sheet and its Carbon Copy is an integral part of the selection process and in this process if the Original OMR Sheet and the Carbon Copy are not having the same circles darkened, then the candidature is likely to be rejected. The reply also cites the decision of the Hon'ble Supreme Court in **Bedanga Talukdar vs. Saifudaullah Khan & Others** AIR 2012 SC 1803, where it has been held that the selection process has to be conducted strictly in accordance with the stipulated selection procedure and there cannot be any relaxation in terms and conditions of advertisement unless such power is specifically reserved in the relevant rules and/or in the advertisement. The reply states that if the Carbon Copy of the OMR Sheet had not been attached properly, then all or most of the circles darkened would not have been in the Carbon Copy. Since this is not the case, it implies there was no problem with the OMR Sheet given to the applicant. The reply further states that the difference between the two OMR Sheets suggests

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that "probably applicant tampered the OMR Sheet for these responses".

3. A rejoinder has been filed reiterating the claims made in the OA. It is stated that both the copies of the OMR are checked to ensure that no alteration is made after the examination. If any mismatch is found then the result of that candidate is not declared. In this case, the matching exercise has been done after the declaration of result. The applicant has also denied the applicability of the cases cited by the respondents on the facts of this case.

4. The matter was finally heard on 26.08.2021. Both the learned counsels of the parties reiterated the arguments mentioned in the respective pleadings. We had also called for the production of original records and these were produced, along with their photo-copies, at the time of arguments. The learned counsel for the applicant argued there were a number of places where the Carbon Copy did not appear to have darkened circles, while these were clear in the original. This shows that there was problem with the carbon copying. The learned counsel for the respondents countered this argument stating that the OMR Sheets were checked and tallied using computers. The computer did register all the other darkened circles in the duplicate sheet

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though these may not be visible to naked eye. The discrepancy was found only with respect to one answer (answer to Q No.132), where no marking [at answer(c)] was detected on the duplicate sheet, while it was prominently clear in the original, and hence the suspicion about tempering.

5. After going through the pleadings and hearing the arguments, we find that there is hardly any difference on the facts forming the subject matter of this OA. The respondents have not disputed the applicant's passing the written examination and other related tests. They have rejected the candidature on the sole ground of the Original OMR not tallying with the duplicate OMR. The applicant has himself admitted, in his rejoinder, that this matching is required to ensure there is no alteration made after the examinations. His contention is that it should have been done before declaration of the result of the written examination. To show the importance of tallying the two copies of the OMR, the respondents have produced minutes of their recruitment officers (at Page 57 of the Paper Book) where it is clearly stated that 100% matching of the duplicate and original OMRs will be done prior to the declaration of final panel. Thus, the whole case hangs on finding whether the rejection of candidature on ground of OMR original sheet not tallying

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with the Carbon Copy is a sufficient ground for rejecting a person's candidature.

6. After carefully weighing the arguments for and against such rejection, we have no hesitation in concluding that it shall be wrong in our part to substitute our judgment for the judgment of the recruiting authority, in deciding what weightage should be given to any failure in fulfilling a particular condition stipulated in an examination process. It is not the contention of the applicant that this condition is not universally applied and only he is singled out for this treatment. There is also no particular reason to suspect bias in the minds of the respondents only against the applicant. We have ourselves examined the original records and it prima-facie appears that the claim above mismatch is not a figment of anybody's imagination. It can be clearly seen with respect to Question No.132, where answer (c) in the duplicate OMR not only does not show any darkening, but is brighter than the rest. Learned counsel for the applicant argued that even ignoring answer to the question (where there a mismatch) would keep the applicant eligible for passing. This is countered by the learned counsel for the respondents by saying that the mismatch raises suspicion about tempering with the examination process which is a matter of serious concern. Since the respondents resort to

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large scale recruitment based on the process of computerised checking of answer sheets, they have to guard against any slippage and must discourage any possible tempering with the process. Under these circumstances, as stated at the beginning of this paragraph, it will not be correct on our part to decide on the relative importance of any violation in the process of selection and tell the respondents about what we consider to be a fatal or a non-fatal error (with respect to anybody's candidature in any selection process).

7. For the reasons mentioned in the previous paragraph, we do not think this is a fit case for our intervention. The OA is, therefore, dismissed. No costs.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

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