

OA No. 291/266/2017

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/266/2017

Order reserved on 06.09.2021

DATE OF ORDER: 10.09.2021

CORAM

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

Jitendra Kumar Meena S/o Shri Bharat Lal Meena,
aged about 26 years, R/o Village Dedrauli, Post
Bajheda, Tehsil Hindaun City, Distt. Karauli (Group-C).

....Applicant

Shri Raghunandan Sharma, counsel for applicant.

VERSUS

1. Divisional Railway Manager (DRM), (Establishment)
Western Railway, Mumbai Central, Mumbai-
400008.
2. Assistant Secretary, Railway Recruitment Board,
Bhopal, East Railway Colony, Bhopal

.... Respondents

Shri M.K. Meena, 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:-

OA No. 291/266/2017

- “1- The letter dated 8-3-2017, whereby the representation for reconsider the case of applicant was canceled and offer of appointment was treated as canceled in view of the terms and conditions mentioned in the attested form may be quashed and set-aside.
- 2- Directed to the respondents to give appointment to the applicant on the post of Assistant Loco Pilot with all consequential benefits.
- 3- Any other appropriate order or direction the Hon’ble Tribunal may consider just and proper in the facts and circumstances of the case, may also kindly be passed.
- 4- Cost of the O.A. may kindly be allowed to the applicant.”

2. The brief facts of the case, as stated by the applicant, are that an advertisement was issued for appointment on the post of Assistant Loco Pilot in the pay scale Rs. 5200-20200 with Grade Pay Rs. 1900/-. As the applicant was eligible and qualified for the said post, he applied for the said post and states that he belongs to ST category. Accordingly, applicant appeared in written examination and as he was successful, he was thereafter called for Aptitude Test and his physical fitness was examined and thereafter given an offer of appointment vide letter dated 25.01.2016. He had submitted Attestation Form on 02.05.2016 along with Character Certificate dated

OA No. 291/266/2017

28.05.2016 issued by Superintendent of Police, Karauli. Vide letter dated 02.09.2016, (Annexure A/7), respondents have terminated the offer of appointment given to the applicant. The applicant replied vide letter dated 15.09.2016 that when offence was committed he was only 17 years old and as he was not involved in the offence, he was acquitted on the basis of compromise vide judgment and order dated 13.04.2016. In spite of giving representation, respondents vide letter dated 24.10.2016, (Annexure A/10), offer of appointment was terminated. Feeling aggrieved by the orders dated 02.09.2016 as well as 24.10.2016, the applicant filed OA No. 291/07/2017 and this Tribunal vide order dated 03.02.2017 quashed and set aside the impugned orders and directed the respondents to reconsider the case of the applicant in the light of judgment of the Hon'ble Apex Court in the case of Avtar Singh within one month. In pursuance of the said order, the applicant filed representation but the same was cancelled in view of the terms and conditions mentioned in the Attestation Form vide letter dated 08.03.2017, (Annexure A/1). In spite of several judgments, the respondents are taking reverse view and have cancelled the offer of

OA No. 291/266/2017

appointment of the applicant though they have to give a chance to the candidate. Therefore, feeling aggrieved by the action of the respondents, the applicant has approached this Tribunal that he may be given appointment on the post of Assistant Loco Pilot with all consequential benefits.

3. The respondents have filed their reply stating that after being given offer of appointment dated 25.01.2016, the applicant was required to fill Attestation Form and submit relevant documents as required. On receipt of documents, the same were sent to District Magistrate, Karauli for character verification and vide letter dated 27.06.2017, it was informed about offences pending against the applicant under Sections 143, 323, 341, 379 and 427 of I.P.C. and charge sheet was filed vide No. 465 dated 22.12.2008 and he was exonerated vide letter dated 13.04.2016. The Competent Authority on that basis finding it to be adverse as per warning clause / condition No. 3 of the Attestation Form decided not to give the appointment and issued a show cause notice to the applicant dated 02.09.2016 and on receipt of representation dated 15.09.2016, cancelled the said

OA No. 291/266/2017

offer of appointment vide Annexure A/10 letter dated 24.10.2016 whereby the services of the applicant were terminated. The respondents state that mere qualifying the selection does not hold him entitled unless his character antecedents are found just and legal. It was further stated that in compliance of the order dated 03.02.2017 passed by this Tribunal in earlier O.A. No. 291/07/2017, the case of the applicant was considered in the light of the judgment of the Hon'ble Apex Court in the case of Avtar Singh and examined by the competent authority and after examination of the same, order of cancelling the offer of appointment was passed by the respondents. Therefore, cancellation of his appointment by rejecting the offer of appointment is just and legal.

4. The applicant has not filed rejoinder denying the contentions of the respondents.

5. Heard learned counsels for the parties and perused the material available on record including the judgments cited by the parties.

OA No. 291/266/2017

6. The learned counsel for the applicant as well as the respondents reiterated their submissions made earlier.

7. After hearing both the parties and after going through the pleadings, it is seen that the applicant being eligible was considered for the appointment on the post of Assistant Loco Pilot as per advertisement No. 01/2014 issued by the respondents subject to conditions including character verification. Before giving offer of appointment, the applicant was required to fill the Attestation Form disclosing all the information as required but the applicant has not disclosed about the criminal cases leveled against him. It is seen that as per letter dated 28.05.2016 of the Superintendent of Police, Karauli, it was stated that a case bearing No. 766/07 dated 14.09.2007 was registered against the applicant under Sections 143, 323, 341, 379, 427 of I.P.C. and a charge sheet was filed vide Charge Sheet No. 465 dated 22.12.2018 and the applicant was exonerated on the basis of compromise vide order dated 13.04.2016. Accordingly, as per the terms of warning clause / condition No. 3 of Attestation Form, Competent Authority did not find the applicant fit for appointment

OA No. 291/266/2017

and accordingly cancelled the said offer of appointment dated 25.04.2016 after giving him show cause notice dated 02.09.2016, vide letter dated 24.10.2016 (Annexure A/10). Respondents issued letter dated 24.10.2016 whereby offer of appointment of applicant was terminated. In earlier O.A. No. 291/07/2017, this Tribunal had quashed and set aside the orders dated 02.09.2016 as well as 24.10.2016 and vide order dated 03.02.2017 had directed the respondents to re-consider the case of the applicant keeping in mind the judgment of the Hon'ble Apex Court in the case of Avtar Singh vs. Union of India & Ors., 2016 (2) SCC [L&S] 425. The respondents had accordingly vide its order dated 08.03.2017, (Annexure A/1), reconsidered the case of the applicant and has examined the case of the applicant as per the directions of the Hon'ble Tribunal and have cancelled the offer of appointment in view of the terms and conditions mentioned in the attestation form.

8. On going through the Attestation Form, warning clause / condition No. 3, is very clear that "If the fact that false information has been furnished or that there

OA No. 291/266/2017

has been suppression of any factual information in the Attestation Form comes to notice at any time during the service of a person, his services would be liable to be terminated". We have observed that the Competent Authority as per warning clause / condition No. 3 of the Attestation Form on finding adverse remarks in his character antecedents did not find him fit for the said appointment and accordingly decided not to give him appointment by cancelling the offer of appointment and his services has been terminated. Thus, the action of the respondents cannot be faulted as though the applicant has been exonerated it is only on the basis of compounding/reconciliation. Merely being eligible in selection is not sufficient as one has also to be fit for appointment in all respects unless his character antecedents are also found to be just and proper. We are in agreement with the order dated 13.08.2021 passed by this Bench of the Tribunal in the case of **Prathviraj Gurjar vs. Union of India & Ors.** (O.A. No. 291/400/2019), relied by the respondents, as the facts of the said case are more or less identical to the present case. In the present case, the action of the respondents cannot be said to be illegal or unjustified as they have taken action as per

OA No. 291/266/2017

the warning clause / condition No. 3 of the Attestation Form. In the present case, even now if the respondents are directed to reconsider the case of the applicant for the said post, the same would be meaningless for want of vacancies as the advertisement was pertaining to the year 2014. Thus, the impugned order in challenge Annexure A/1 dated 08.03.2017 does not deserve any interference as the same is just and proper.

9. In view of the observations made herein-above, as the Original Application filed by the applicant is devoid of any merits, the same is, accordingly, dismissed. No order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

/nlk/