



**. CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 1010/2017

This the 30th day of April, 2021

(Through Video Conferencing)

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Nandita Chatterjee, Member (A)**

Sh. Pankaj,
S/o Sh. Hari Kishan,
R/o H. No. 88,
Near Chhota Shiv Mandir,
Alipur, Delhi.

... Applicant

(By Advocate : Ms. Meghna De for Mr. Rajiv Aggarwal)

Versus

The General Manager,
Northern Railway,
K.G. Marg, Baroda House,
New Delhi – 110001.

... Respondent

(By Advocate : Mr. Kripa Shankar Prasad with Ms. Ritu
Rajkumari)



O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The respondent initiated steps for selection/ appointment of Group 'D' posts in the year 2013. The applicant was one of the candidates, and was assigned Roll No.50204833. The written test was conducted on 30.11.2014. On the basis of the performance in the written test, he was called for verification of records and Physical Eligibility Test (PET) on 26.03.2015. However, when nothing was forthcoming, the applicant got issued a legal notice on 23.06.2016. Thereafter, a reminder was issued on 26.07.2016. On noticing that an order of rejection was put on the website, the applicant filed this O.A. with a prayer to direct the respondent to revoke the rejection of his candidature for the Group 'D' post and direct them to issue necessary orders of appointment, based upon his performance in the written test.

2. The applicant contends that he fared well in the written test and PET, and obviously for that reason, he was called for document verification, but, without issuing any notice and passing any specific order, the respondents have rejected his candidature.



3. The respondent filed a reply. It is stated that the applicant was called for document verification, based upon his performance in the written test and, at that stage, the documents pertaining to his examination were sent for expert opinion. It is stated that the OMR sheet, the application form and other relevant documents were scrutinized and the experts opined that there is a discrepancy in the handwriting in various documents and that it was decided to obtain views of the Ministry.

4. The O.A. was heard on 09.04.2021. Since the reasons mentioned in the counter affidavit were not specific, we required the learned counsel for the respondent to file an additional affidavit indicating the detailed particulars of the alleged mismatch. Accordingly, the respondent filed an additional affidavit. It is stated that the specimen signatures were sent for verification alongwith various documents. According to them, no discrepancy was noticed in the 1st stage. But, in the 2nd stage, the expert body found discrepancy and accordingly, they rejected his candidature.

5. Today, we heard Ms. Meghna De proxy for Mr. Rajiv Aggarwal, learned counsel for the applicant, and Mr. Kripa Shankar Prasad assisted by Ms. Ritu Rajkumari, learned counsel for the respondent.



6. It is a matter of record that the applicant took part in the written test and PET conducted for selection to Group 'D' post and he was called for document verification. In other words, he was within the zone of selection, in case no discrepancy was noticed in the documents. Having verified the documents, the respondent did not inform him anything. It was only through a general notice put on the website that the Roll Number of the applicant is included therein. In compliance with the direction issued by this Tribunal requiring the respondent to furnish the details of the so called discrepancy, the additional affidavit is filed. In para 3 of the same, it is stated as under:

“3. The candidature of the applicant was essentially rejected on the basis of the expert report, which follows as under:

- i. The writings and signature in the red enclosed portions marked A-2 (OMR), A-3 (Document verification) & A-4 (Medical Memo) match.
- ii. The writings and signature in the red enclosed portions A-2 (OMR), A-3 (Document verification) & A-4 (Medical Memo) do not match with the writings in the red enclosed portions marked A-1 (Application)”

They have also enclosed the relevant documents.

7. From the above, it is evident that there was no mismatch noticed when the portions marked as A-1, A-2 and A-3 were compared. However, the discrepancy was noticed when those three marked documents were compared with the portion



marked as A-4 i.e., Medical Memo. The relevant documents were also annexed to the additional affidavit.

8. From the above, it becomes clear that the respondents have undertaken a detailed verification and on noticing some discrepancy, they cancelled the candidature of the applicant. In other words, there is an allegation of impersonation or of similar nature, and that led to the cancellation. Hardly, it needs any mention that the conclusion arrived at by the respondents has its own serious impact on the applicant. The rights that accrued to him on the basis of his performance in the written test are taken away. Such a step can be taken, only after giving an opportunity of being heard, to him.

9. Admittedly, no show cause notice was issued to the applicant. The report of the expert body was taken on face value and the candidature of the applicant was cancelled straightaway. We are of the view that the step taken by the respondents is in clear violation of the principles of natural justice.

10. Reliance is placed upon an order dated 24.04.2017 in OA No.416/2015, which in turn, was upheld by the Hon'ble High Court of Punjab & Haryana at Chandigarh in WP(C) No.



12264/2016, dated 08.11.2016. The Hon'ble High Court observed that when the decision is taken on the basis of the opinion of the expert bodies, the principles of natural justice need not be followed. With great respect, we find it difficult to accept that proposition. Time and again, the Hon'ble Supreme Court held that the principles of natural justice are non-negotiable and even in case where the concerned individual may not have any plausible explanation, the requirement cannot be dispensed with. Reference can be made to the judgment of the Hon'ble Supreme Court in **Olga Tellis & Others v. Bombay Municipal Council** (1985 (2) Supp SCR 51/AIR 1986 180). Added to that, the Punjab & Haryana High Court, itself in a subsequent judgment in WP(C) No.7598/2017 dated 14.03.2019, held that the performance of a candidate cannot be cancelled unilaterally, just on the basis of assumptions. The Hon'ble High Court itself sent certain documents for opinion of experts and ultimately granted the relief. We are of the view that the applicant is entitled to be put on notice.

11. We, therefore, allow the O.A. and set aside the cancellation of the candidature of the applicant. It is left open to the respondents to issue a show cause notice to the applicant indicating the reasons and enclosing the relevant



documents, within four weeks from the date of receipt of a copy of this order. The applicant shall have two weeks' time to file reply thereto. The final order in the matter shall be passed within a period of four weeks from the date on which the reply is filed by the applicant or the time stipulated therefor expires. The respondents enclose the relevant documents including the opinion of the expert body. Further steps shall be taken, depending upon the exercise indicated above. There shall be no order as to costs.

(Nandita Chatterjee)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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