

O.A. 1141 of 2014

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**

O.A./350/1141/ 2014
M.A./350/794/2019



**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. N. Chatterjee, Administrative Member**

Mouli Majumder,
Son of Sri Bhaskar Majumder,
Residing at village & P.O. – Kampa,
District – North 24 Parganas,
PIN – 743 193.

..... Applicant.

Versus

1. Union of India
Through the General Manager,
Eastern Railway,
17, N S Road,
Kolkata – 700 001.
2. The Additional General Manager &
Director of Public Grievance,
Eastern Railway,
17, N S Road,
Kolkata – 700 001.
3. Chief Personnel Officer,
Eastern Railway,
17, N S Road,
Kolkata – 700 001.
4. Chief Works Manager &
Appellate Authority,
Eastern Railway, Kanchrapara,
District – North 24 Parganas,
PIN – 743145.
5. Works Personnel Officer,
Eastern Railway, Kanchrapara,

District – North 24 Parganas,
PIN – 743145.

6. Public Information Officer &
Production Engineer,
Eastern Railway, Kanchrapara,
District – North 24 Parganas,
PIN – 743145.

7. Ahindranath Biswas,
Son of Sri Mahendra Nath Biswas,
Residing at Village Chakla,
Post – Chandua, Kanchrapara,
District – North 24 Parganas,
PIN – 743145.

..... Respondents.

For the applicant : Mr. K. Chakraborty, Counsel
Mr. P. Sañyal, Counsel

For the respondents : Mr. S.K. Das, Counsel

Date of Order : 11.03.2021

ORDER

Per : Bidisha Banerjee, Judicial Member

Ld. Counsels were heard.

2. This application has been preferred to seek the following reliefs:

"8.a) An order directing the concerned respondent to re-evaluate the answer scripts of the written test of the respondent no. 7 and the applicant, held in terms of the said employment notice dated 10.12.2013 (Annexure A-1) and to examine the certificates of the applicant vis-a-vis the respondent No. 7 for the purpose of grading; by appointing any third party who has no nexus with the abovementioned selection process and to publish the result forthwith and further directing them to issue a letter of appointment after such reevaluation of answer scripts, in Group – D Post against Scout and Guides Quota for Kanchrapra Workshop, Eastern Railway.

b) An order directing the respondent no 6 to supply the information i.e. the answer scripts of the applicant as well as the respondent no 7 to the applicant in terms of the application dated 02-04-2014 under Right to Information Act 2005 forthwith.

c) An order directing the respondent to rescind/ revoke and/ or withdraw the Memo dated 05.08.2014 (being made Annexure A-15) issued by the respondent No. 4 and to consider the candidature of the applicant for the said Group 'D' Post against Scouts and Guides Quota for the year 2013-2014, if the applicant is found suitable upon evaluation of the answer scripts of the applicant vis-a-vis the respondent No. 7 and to pay all consequential benefits thereto.

d) An order directing the respondents to rescind, revoke and/ or withdraw the order of appointment if any issued in favour of the Respondent No. 7, in the meantime.

e) An order directing the respondents to produce and/or transmit the entire records relating to the case of your applicant before this Hon'ble Tribunal.

f) An to pass such other or further order or orders as your Lordship may deem fit and proper."

3. The grievance of the applicant:

That the applicant, pursuant to an Employment Notice No. 01/2013/S&G, dated 10.12.2013, applied for the Group 'D' Post against the Scouts and Guides Quota for the year 2013-14 for Kanchrapara Workshop of Eastern Railway. On 09.03.2014 he appeared alongwith other two candidates, one of them being the Respondent No. 7 namely Ahindranath Biswas, for the written test and viva voce.

That the applicant is a Commerce graduate and received intensive training in Scouts Guides under the Bharat Scouts and Guides, Kanchrapara, Eastern Railway and was awarded certificate by the President of India twice in the year 1998 and in the year 2006 for participating in various State-level, National level and Inter-National level programmes of Scouts and Guides. He had done extremely well in the aforesaid written test.

He was extremely surprised and aggrieved to note that the said Respondent No. 7 was selected and given appointment for the said Group 'D' post by an order dated 19.08.2014, rejecting her candidature and ignoring her brilliant performance in written test and notable achievement in the related field of Scouts and Guides.

Accordingly to the applicant, the authorities seem to have adopted unfairness and discrimination in the matter of the selection process. While evaluating and awarding marks in the Answer papers and certificates with the sole motive to induct a pre-chosen person against post by discarding the applicant, a deserving candidate.

In view of such questionable evaluation, the applicant was compelled to prefer RTI applications on 11.03.2014 (A-5) and 02.04.2014 (A-8) to the Public Information Officer, Eastern Railway Kanchrapara and lastly to the Appellate Authority Grievance Cell, Eastern Railway on 18.07.2014 (A-14) requesting them to supply him the certified copies of Answer papers of Written examination and certificates Scouts and Guides of both Sri Ahindra Nath Biswas (Respondent No.7) i.e. the applicant himself, for the purpose of scrutiny to dispel his doubts and anxieties regarding the suspected irregularities in the whole selection process.

But the aforesaid authorities did not supply the Answer papers of written examination.

Applicant has alleged that the respondent authorities have refused supply of the Answer papers simply because of their involvement in this

nefarious practice. He has alleged that an employee is bound to supply the Answer papers under R.T.I. Act, 2005.

Applicant has relied upon the following decisions in support:

1. W.P./8007 (W) OF ... VS STATE OF WEST BENGAL & ORS. ON 18 DECEMBER 2012
2. WRIT (NO. 6610 OF 2012 BEFORE HIGH COURT OF JUDICATURE AT ALLAHABAD

The applicant has canvassed that while scrutinizing the certificates of Scouts and Guides and guides of both the Respondent No. 7 and of the applicant, as supplied by the authorities, it was detected by him that the Railway authorities have not followed their own Rules. That in terms of para 5.2 to 5.8 of their Employment Notice dated 10.12.2013, Respondent No. 7 was eligible for only 33 marks as per Scouts and Guides qualification but he was awarded 35 marks as would evident his Marksheet.

That it was unearthed by the applicant that on account of improper evaluation of the Answer papers, the Respondent No. 7 i.e. Ahindra Nath Biswas was given marks even against wrong answers. That Sri A.N. Biswas i.e. Respondent No. 7 scored 45 marks as per Marksheet (A-7).

That, the Application Form (Jamboree Event) of Respondent No. 7, Ahindra Nath Biswas, if checked/ verified properly and impartially, it will reveal that he used the same certificate twice (P-97 & 99) thus the Respondent No. 7 was evaluated twice for the same event which is one of the various irregularities of the so-called selection process of Group-D post and a fraud.

The Applicant would thus pray for a re-valuation of Answer papers etc. by a third party in an impartial manner for dispensing justice and equity to him.

4. Per contra the respondents would plead that Sri Majumder appeared for personality test/interview along with two other candidates namely Amit Sardar and Ahindra Nath Biswas before the selection committee on 9.3.14. Selection Committee found Ahindra Nath Biswas suitable for the said post. Result of the selection for recruitment against Scouts & Guides Quota for the years 2013-2014 in the Eastern Railway Kanchrapara Workshop for the post of Group 'D' was published vide order No. E/CON/216 dt. 10.03.2014. Shri Ahindra Nath Biswas was appointed in Group 'D' category as Helper-II and posted under SSE/2A/KPA on pay Rs. 7000/- pm in Pay Band-1, Rs. 5200-20200, with G.P. Rs. 1800/- vide E.O. No. E/R/24/2014 dtd. 19.08.2014.

Subsequently applicant preferred an application dt. 11.03.14 before Public Information Officer under RTI Act, 2005 praying for information regarding marks obtained by all the candidates appeared before the selection committee. The representation was disposed of vide PIO/KPA's letter dt. 26.03.2014 (Annexure A-7).

The applicant further preferred an application dt. 02.04.2014 before PIO/ER/KPA under RTI Act, 2005 praying for certified copy of answer sheet of written exam of Respondent No. 7, Ahindra Nath Biswas and his own (photocopy annexed with the present application and marked as Annexure A-8). The representation was disposed of vide PIO/ER/KPA's letter dt. 21.04.15 (Photocopy



annexed with the present application and marked as Annexure-A-10) advising him therein to attend office WPO/ER/KPA to inspect the answersheets.

The applicant attended office on 02.05.15 and went through the answer sheets, of himself as well as of Ahindra Nath Biswas. He even admitted the above said fact in his letter dt. 20.05.2014.

Further Sri Majumder preferred appeals dt. 20.05.2014, 21.05.14 and 10.07.14 before CWM/KPA and sought information under RTI Act 2005 and the said appeals were disposed of vide CWM/KPA's letter dt. 20.06.2014 and 02.08.2014 respectively (Annexure A-12 & A-13)


Being dissatisfied the applicant further preferred appeal before AGM/ER/KOL and the said representation was disposed of vide letter dt. 05.08.14 (Annexure-A-12 & A-15).

The applicant was duly intimated, vide letter dtd. 05.08.2014, (Annexure-A-15) that the copies of answer books of Shri Ahindra Nath Biswas cannot be supplied to him in terms of CIC's decision communicated vide letter No. CW/RTI/SL-24/RP dtd. 20.06.2014.

The respondents would claim that answer books of the written examination for recruitment of Gr. 'D' against Scouts & Guides Quota for Kanchrapara Workshop have been evaluated by a competent officer and the panel have been made by a selection committee following norms properly.

Therefore the applicant is not entitled to get any relief.

5. In view of the factual discrepancies alleged and the grievances of the applicant as noted above, as this forum is not competent to make a roving and



fishing inquiry to find out whether the applicant was more deserving than the respondent No. 7, we direct the respondent No. 5 to give a personal hearing to the applicant, allow him to inspect the answer scripts if not inspected earlier, and certificates of the respondent no. 7 allow him to raise objection and dispose of his grievance in three months with a reasoned and speaking order or an appropriate order in accordance with law.

6. This O.A. is accordingly disposed of. No costs.

Consequently the M.A. 350/794/2019 which has been filed by the respondents for compliance of the order dated 13.12.2018 stand disposed of.

(Dr. N. Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

drh