

A
A
(2)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration No. 412 of 1986.

Chandrika Prasad and 5 Others. Applicants

Versus

Union of India and Others Respondents.

Present: 1.Hon.S.Zaheer Hasan, V.C.(J)

2.Hon. Ajay Johri, Member (A)

Judgement delivered by Hon. Ajay Johri, Member (A)

The petitioners (six in number) had in response to the notification for appointment to class IV posts, ^{3b on the Plant Depot at Mughalsarai,} made vide Employment Notice No.PD/E/2/85 dated 12.9.85, applied for being considered for the above appointment. They were not called to participate in the selection which was being held from 12.7.86 to 28.8.86. Being aggrieved by this, they have approached this Tribunal for iss ue of a direction to the respondents to permit them to sit in the said selection for the class IV posts.

2. According to the respondents, the petitioner's application forms were not found properly filled and therefore they were rejected. The Plant Depot Mughalsarai had received 20897 applications out of which 13506 applications were rejected for defects and only 7391 applications were found correct. In the case of the petitioners the specific deficiencies found in the application forms were :-

Petitioner No.1: Non filling of the date, item 14(a) of the application not filled properly, no certificate in support of date of birth submitted.

Petitioner No.2: Columns 4 and 7 of the application form

filed as Annexure-A to the petition, positive statements were not required to be made and a cross or tick could indicate whether the reply is in negative or positive. Further the forwarding authority had made no objection to the discrepancies that had been pointed out now. There being no legislative intentions behind the filling up of applications specific expressions were not required and therefore even if a cross mark has been made it should have been taken as a negative answer. Since the petitioners who had applied for the said selection had not been apprised of ^{of} the grounds of rejection of their applications, their basic right to know the causes leading to rejection had been denied. They had also not been given an opportunity to be heard in person before rejection of their applications. Thus the principles of natural justice have been violated.

4. According to the learned counsel for the respondents, the applications of the petitioners were not properly filled and had defects as pointed out in para 2. The petitioners were not singled out for rejection of their applications for similar defects more than thirteen thousand applications had been rejected. Therefore there was no discrimination made by the administration in rejection of these applications and the principles of natural justice did not stand violated.

5. A copy of the Employment Notice No. PD/E/2/85 dated 12.9.85 for the recruitment of class IV category for Shops and establishments under Deputy Chief Engineer Bridge/Plant Depot Mughalsarai had been placed as

Annexure-CA-I to the Counter Affidavit. This notice gives the number of anticipated vacancies and details of age limit, conditions, mode of submission of applications, last date of submission of applications and general instructions to the candidates etc. At the end of the notice a caution has been emphasized. It has been published in block capitals. The relevant sentences of this caution read as follows :-

~~3/~~ ANY.
" AT THE STAGE (EVEN AFTER SELECTION) IF NON COMPLIANCE OF ANY OF THE INSTRUCTIONS LAID DOWN ABOVE IS DETECTED, THE CANDIDATURE WILL BE CANCELLED.....THE APPLICATION FORM SHOULD STRICTLY CONFORM TO THE ATTACHED PROFORMA." ✓

3/ 6. The Employment Notice has other instructions too. Some of these are :-

- (i) Para 3(ix) - asking for copies of all certificates duly attested.
- (ii) Para 6(c) - applications not properly filled in/incomplete or with over writings/erasings or not supported by the attested copies of certificates/testimonials will be liable to be rejected. No correspondence shall be entertained.
- (iii) Para 6(f)(i)- Two recent passport size photographs duly signed by the candidate in the front, of which one to be pasted on the right hand corner of the application and the other to be pasted on the admit card form in the space provided.
- (iv) Para 6(f)(ii) - Attested copies of certificates showing designation and bearing the office seal of the attesting authorities.
- (v) Para 6(f)(iii)- No column should be left blank.

Even if the answer to more than one column is the same those should be filled up separately and no ditto/do should be used.

- (vi) Para 6(1) - The service particulars of deceased/retired/serving Railwaymen as furnished by the candidates, where necessary vide item No.14(a) of the application form must be got verified and countersigned by the incharge of the offices/shops where employed with clear designation and office stamp.

34

7. The form of application for appointment which was required to be filled by the candidates is on page 9 of the paper book (Annexure-A). In this form definite instructions exist in regard to filling up of certain information e.g. against column 7 the applicant has to give particulars whether he was ever arrested or convicted or any criminal case is pending against him. Similarly against column 16 the left thumb impression has been kept compulsory and was to be given duly rolled very carefully in Printer's black ink only. Particulars given against item 14(a) were required to be verified by the Incharge of the office under whom the Railway employee whose name has been given by the candidate is/was working. In the end there is a column for the use of the office which gives remarks whether the application has been accepted or rejected and if it has been rejected the reasons for rejection. This scrutiny has to be done by the scrutiny clerk.

8. The learned counsel for the petitioner has during his arguments stressed that the contents of the application were verified by the forwarding officer and

therefore it could not be said that the application form was not correctly filled. The forwarding officer was a supervisor of the Shop, his verification has to be authentic. The learned counsel for the petitioner has further argued that this being so, the applications ³¹ ~~having~~ been verified by a railway official, the question of their rejection subsequently should not arise.

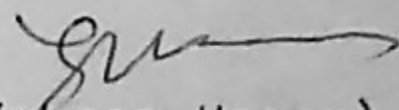
9. On the subject of verification, the Shop Supervisor was required to verify only the particulars of the employee whose name and details had been given against column 14(a). He was not required to verify any other column of the application and the fact that he had forwarded the application does not put the onus of the correctness of the application also on the Shop Supervisor. It is difficult to subscribe to the contention of the learned counsel for petitioners that since a Shop Supervisor has verified entries in column 14(a) he has also verified the other entries made in the application form. The verification was only against the particulars as filled in by the applicant in column 14(a).

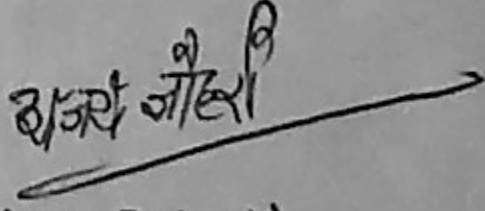
10. In their Employment Notice the respondents had made it amply clear that non compliance of any of the instructions laid down in the Employment Notice will result in the candidature of the petitioner being cancelled. The filling up of the date of the application may not be considered material if the application is handed over in the office and it is acknowledged. These applications had to be put in a box provided at the main gate of the Plant Depot at Mughalsarai. The last date of the submission of the applications was on 17.10.1985 at 1500 hours. It does

happen that some applicants start disputing the fact of delayed submission of their application if the same is rejected on account of late receipt. The filling up of the date becomes material in this respect. In normal circumstances if the date is not filled but the application on receipt is stamped by the office which receives it, disputes may not rise. Probability of challenges being made on timely or late submission where an application has been dropped in the box can arise and therefore it cannot be said that not filling the date in the application was a minor omission. Similarly absence of certificates in support of the date of birth, illegible left thumb impressions, photos not being signed by the applicants, absence of certificate of educational qualification cannot be said to be oversight. The candidates who do not fill the applications properly, against the specific instructions in the Employment Notice on various points, do so at their own risk. There were others who took pains, who were careful and who filled their application forms properly and in accordance with the instructions. One cannot put up a plea later on that he has not been advised of the faults on the basis of which his application was rejected. It cannot be claimed that the petitioners were not in the knowledge of the risk that they ran if the forms were subsequently found not filled in accordance with the instructions. This cannot be denial of principles of natural justice. The respondents had placed their cards on the table and had made it abundantly clear that the applications not properly

filled or found incomplete or with over writings or not supported by attested copies of certificates will be liable to be rejected and no correspondence shall be entertained in this regard. The petitioners cannot now take shelter behind a plea that the omissions were minor and the applications should not have been rejected before advising them. No correspondence was supposed to be entertained in respect of the applications by the respondents in terms of the Employment Notice, hence there was no question of informing the petitioners the cause of rejection of their applications. Similarly if the petitioners have put a cross mark or tick mark against column 7 which is a question asked from them in regard to their having ever been arrested/convicted or any criminal case pending against them in any court, the intention of the applicant cannot be judged. The answer to a query made in the application by a tick or a cross may be very conveniently accepted if the candidate is answering an objective type of question paper where the time is short and number of questions to be answered are many. In an application for appointment, where definite information is sought on certain aspects about the applicant, a positive answer will appear to be a must. ^{at any other mode of} If ~~such~~ reply could be acceptable the instructions would have given the alternative. After all the Employment Notice had made it very clear that ^{at even} ditto or do will not suffice as an answer to a question which may have the same answer as the previous one (para 6(f)(iii)).

11. In the result the petition fails and is dismissed. The parties will bear their own costs.


(S. Zaheer Hasan)
Vice Chairman(J)


(Ajay Johri)
Member (A)

RKM

Dated 15th Sept., 1986.