

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated: This the 19th day of May 2011

Original Application No. 685 of 2006

Hon'ble Dr. K.B.S. Rajan, Member (J)
Hon'ble Mr. D.C. Lakha, Member (A)

Shri Jainath Ram, s/o Shri Shiv Prasad, R/o 22-B, Suriankuwan,
Post Basaratpur, District Gorakhpur. .

. . . Applicant

By Adv: Ms. A. Basheer

V E R S U S

1. Union of India through Chairman Railway Recruitment Board, Gorakhpur.
2. Chief Personnel Officer, N.E. Railway, Gorakhpur.

. . . Respondents

By Adv: Ms. Sikha Singh

O R D E R

By Hon'ble Dr. K.B.S. Rajan, Member (J)

This OA has been filed against the decision of the respondent to cancel the candidature of the applicant for the post of Commercial Apprentice, exams for which had taken place in 2005 and show cause notice on 24-05-2006 (impugned) and later on by order dated 22-08-2006 not only his candidature was cancelled, but also that he has been debarred for life from appearing for the competitive examination through RRB.

2. This OA is against the said order dated 22-08-2006.

3. This case need not dilate us. In a very recent case of this nature, in O.A. No. 317 of 2011, wherein just show cause notice only was given without any details as to the documents that

were furnished to the Government Examiner of Questioned Documents, this Tribunal has passed the following order:-

"The applicant, an aspirant for the post of S.E. Mech/Fitter/B.smith at the Diesel Loco Motive Works Varanasi applied for the said post in pursuance of employment notice No. 1/2008, category -II. The said notification contained various terms and conditions including that the application should be filled in, in the own handwriting of the applicant. At the time of verification, according to the respondents as it appeared to them that the signature as well as sample handwriting of the applicant on the application form, Admission Card as well as question booklet and answer-sheet happened to be of varying handwriting, the result of the applicant was withheld and the documents were sent to the Government Examiner of Questioned Documents for his opinion. As the Government Examiner confirmed that that the signature and handwriting were of different persons, it was decided by the respondents to bar the applicant from appearing in the future examinations, apart from cancelling his candidature in respect of the current examination. The applicant was issued with a show Cause Notice dated 23.07.2010 (Annexure A-1).

2. *The applicant has given his explanation, emphatically stating that it is no one else but his own self that had appeared in the written examination, and for verification of records and it is he who had signed on the application form as well as answer sheets/question booklets.*

3. *The applicant had also obtained certain formation under RTI Act through his brother from the respondents and challenged the action taken by the respondents as well as to debar the applicant from appearing for future examination, which are incomplete violation of the principles of natural justice.*

4. *Respondents have contested the OA. According to them, the action taken by them is fully justified.*

5. *Counsel for the applicant vehemently argued that here is a case where entire action taken by the respondents is behind the back of the applicant. He has emphatically stated that the handwriting as well as the signature is of the applicant only and there is no question impersonation when the admit card contains the photograph of the applicant and the signature on the attendance sheet appended by him which could have been compared with the signature of the applicant already appended in the application form as well as other documents. Impersonation is next to impossibility when due check and balances are provided as an in-built system.*

6. *Counsel for the respondents submitted that the entire action taken is in accordance with the Railway Board's circular dated 11.07.2001. notwithstanding sufficient safeguards being provided in ensuring that there is no impersonation, more often than not such impersonation taken place and at the time of verification thing comes to limelight and it is for confirmation of varying signature and handwriting that the expert opinion of the Government examiner of questioned document is obtained.*

7. *Arguments were heard and documents were perused. Though the admission card does contain the photograph of the applicant, possibility of impersonation may not be thoroughly ruled out under the existing system. The notification contain stipulation that the application should be in the own handwriting of the applicant. Needless to mention that the signature on the application should also be on the applicant only. At the time of verification, the signature and handwriting are once again taken and all such signature and handwriting available are matched in*

the instant case also the same drill seems to have been performed by the respondents. When by a mere compensation a distinct difference in handwriting and signature he is spotted, the authorities plunged into action verify whether the signature and handwriting (a) in the application (b) in the admission card and the question booklet as well as answer sheets (c) the one that is taken at the time of verification are of the same person. The lone recourse available to the respondents is to verify these documents through the Government examiner of questioned document. The process prescribed and executed in this case so far cannot be faulted with. However, when the Government examiner of questioned document gives his opinion, principles of natural justice readily warrant that before taking a decision transparency is manifested by informing the applicant the details of documents that were sent to the Government Examiner for Questioned Documents. This would give the applicant full opportunity to defend his case, if he so desires. From this point of view, the respondents have fallen into a grave error consequent to which the impugned order is liable to be quashed and set aside.

8. In view of the above, the OA is allowed to the extent that the impugned order dated 23-07-2010 is quashed and set aside. Respondents are directed to make available copy of all the documents including the finer details of queries raised before the Government Examiner of Questioned Documents. After obtaining the applicant's reply in regard to the documents sent, the matter may be referred once again to the Government Examiner of Questioned documents without any reference to the previous communication so that the matter could be considered afresh by the said Government Examiner of Questioned documents. The decision thereof be communicated to the applicant and if there be a confirmation that the signatures and handwriting are only from the same individual, the result of the applicant be declared and further action taken accordingly. Needless to mention that if the applicant had succeeded in the examination, he should be offered the appointment on the basis of his merit and his pay would be fixed notionally from the date his junior had been paid and his seniority shall also be maintained accordingly. Pay on actual basis would be made available to the applicant from the date he actually shoulders the responsibilities. In case he is not through in the examination, he may be suitably informed.

9. This order shall be complied with, within a period of five months from the date of communication of this order. If for any justifiable reason, further time is required, the respondents shall take due steps to prefer necessary application in advance before the expiry of the time stipulated, in which event also further time would be granted only on being satisfied that the respondents have taken due and prompt action and further time is to complete the balance action. In case the applicant is to be offered the appointment and if there is undue delay, for the period of six months, from the date of communication of this order, the applicant shall be eligible for actual pay and allowances.

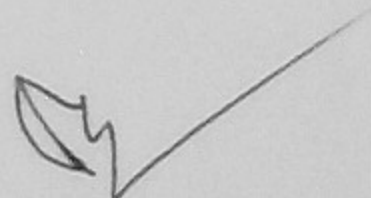
10. Under the circumstances, there shall be no orders as to costs."

4. Justice demands that the same order is passed in this case as well.

5. In view of the above, the orders dated 22-08-2005 as well as 24-05-2006 are quashed and set aside. Respondents are

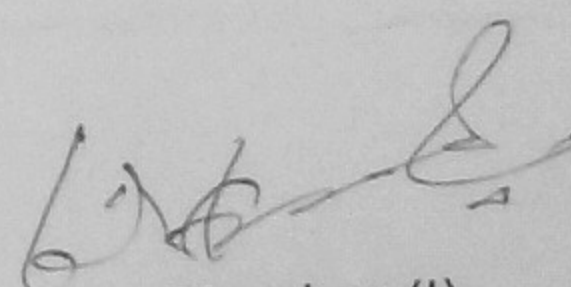
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No costs.



Member (A)

/pc/



Member (J)