

ORIGINAL APPLICATION NO.774/2005

ORDER DATED 14.07.06

The applicant appeared for the post of Trainee Assistant Driver(Electrical/diesel)as against category No.01 pursuant to a notification issued by the Respondent No.2. The Applicant was selected and was asked to appear in the psychological test. Subsequently he was declared successful as per the result declared in the Employment news and h was called for verification of testimonials on 12.06.03. Subsequently by letter dtd.06.07.05(under Annexure-A/5) the result of the Applicant was cancelled. The relevant portion of the order reads as under.

“3.However,during verification, it was noted that your signatures and handwritings did not appear to match with the signatures and handwritings available in your question booklet of written examination.

4.Further, your signatures and handwritings were sent to the appropriate government authority for comparison with the signatures and handwritings available in your question booklet. The Authority have confirmed that the signatures and handwritings are of different persons. That means, the person who wrote the written examination(whose signatures and handwritings are available in the question booklet) is not yourself.

5.Hence, it is proved that you have arranged an impersonation to write the written examination for you.

6. In terms of extant rules, your candidature for the above post is hereby cancelled and you are being debarred for life from appearing in all Railway Recruitment Board examinations and also for appointment in Railways.

7. Further, the Railway Recruitment Board/Bhubaneswar reserves the right to initiate criminal proceedings against you at any time for the above mentioned misconduct on your part.”

The same is the subject matter of challenge in this O.A.



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2. The Ld.Counsel for the Respondents has drawn our attention to various documents on record including the reports of the hand-writing experts and has submitted that in so far as the questioned documents of Q1,Q2 and Q5,Q6 are concerned the report of the hand writing experts is that the person who has written the admitted writing S1,S2 and A1 had written the same. The dispute,however, is in relation to the findings of the handwriting experts pertaining to Q3 and Q4. The Ld.Counsel for the Applicant further contents that the Q1,Q2 and Q5,Q6 show that it was the Applicant himself who was present at the time of the examination and had signed the said documents. In relation to Q3 and Q4, the explanation has been given by the Applicant in rejoinder that the difference in the handwriting is on account of the circumstances under which the paragraph was written, namely that the paragraph at page-12 annexed to the reply is a repetition of one appearing at page-2 of the book-let, whereas the passage appearing at page-14 of the reply has been copied down from the Black board and was written at the time of verification.

3. Ld. Counsel for the Applicant submits that the explanation is not only plausible but should be accepted because the authorities have not sent the LTI of the Applicant taken on various documents at the time of examination for comparison to the ^{Finger Print} handwriting expert and if the same had been sent, it would have confirmed that it was the Applicant alone who had appeared for the examination and therefore, there is no impersonation whatsoever. It is also submitted by the Ld.Counsel for the Applicant, after placing reliance on two judgements of the Apex Court that no opportunity was given to the Applicant before the impugned order was passed which has resulted in the civil consequences of not only cancellation of the result but also debarring the Applicant for the life.

4. The Ld.Counsel for the Respondents has supported the stand taken by the Respondents and he has drawn our attention to the various documents on record.

5. Even though in respect of question documents Q1,Q2 and Q5,Q6, the presence of the Applicant at the beginning of examination cannot be disputed, yet the handwriting expert report is crystal clear that Q3 and Q4 which is also part of the examination on 29.09.02 which is in the handwriting of applicant is totally different than the admitted handwriting in S1. Even bare perusal of Q4 and S1 as also Q3 and the signatures of the Applicant would go to show that the said handwritings are not of the same person. The execution of words, manner of writing, slant, pressure etc., is

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8. totally different in Q3 and Q4 as compared to S1. Therefore the handwriting experts report in relation to Q3 and Q4 cannot be faulted with and the same makes it clear that it is not the Applicant who has written Q3 and Q4 and it was somebody else on his behalf who had done it. The case of impersonation is therefore, proved against the Applicant and the explanation given by the Applicant in the rejoinder cannot be accepted since the explanation is ~~given~~ only with a view to somehow or the other get over the impugned order.

6. The Applicant seeks cancellation of letter dated 06.07.05 by which his result has been cancelled and he had been debarred from any appointment under the Railways. The notification itself had cautioned the candidates that any person found adopting unfair means in the examination or found guilty of arranging impersonation will be debarred for life from all appointments in the Railways and such candidates will also be prosecuted by lodging FIR. The same caution was again given to the candidates in clause-14 of the admission card.

7. In the facts and circumstances of the case, it was not necessary to issue any show-cause notice to the Applicant as contended by the Ld. counsel for the Applicant. Besides, the Ld. Counsel for the Respondents has drawn our attention to the Judgement of the Hon'ble High Court of Jharkhand in Shreekant Kumar vrs. Union of India & Ors. In W.P.No.2864/04 wherein similar challenge raised by the petitioner had been rejected by the Hon'ble High Court.

8. In view of the fact that the handwriting experts report is crystal clear on the issue, it is not necessary to send LTI of the Applicant for comparison to the finger print expert.

9. With the aforesaid observation, this O.A. is rejected with no order as to costs.

Prasanna
MEMBER (ADMN.)

R...
VICE-CHAIRMAN

*Copy of Order may
be given to both
the counsels.*

15.7.06

*20/7/06
S.O. (J)*