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Mr. D.K. Mohanty

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

**ORIGINAL APPLICATION NOS. 360-362/07 with M.A.Nos. 126-128/08
respectively, O.A.No.364/07 with M.A.No. 105/08 and O.A.Nos.365-366 OF 2007
CUTTACK, THIS THE 5th DAY OF March, 2008**

CORAM :

HON'BLE MR. M.R.MOHANTY, VICE-CHAIRMAN
HON'BLE MR. C.R.MOHAPATRA, MEMBER(A)



In the matter of

1. O.A.No.360/2007
Sk. Mustaque.....Applicant
Versus
Union of India & Ors.....Respondents
2. O.A.No.361/2007
Sk. Manjur.....Applicant
Versus
Union of India & Ors.....Respondents
3. O.A.No.362/2007
Md. A. Sabur.....Applicant
Versus
Union of India & Ors.....Respondents
4. O.A.No.364/2007
P.K.Sahoo.....Applicant
Versus
Union of India & Ors.....Respondents
5. O.A.No.365/2007
R.N.Rana.....Applicant
Versus
Union of India & Ors.....Respondents
6. O.A.No.366/2007
A. Kahan.....Applicant
Versus
Union of India & Ors.....Respondents

(For Full details, see the enclosed cause title)

For Applicant : Mr. D.K.Mohanty, M/s. P.K.Chand,D.R.Parida, S.Khan,
H.Mohapatra, B.Parida, M/s. D.Dhar, B.Senapati

For Respondents: M/s. R.S.Behera,S.K.Bal, M/s R.N.Pal,R.Mishra, Mr. D.K.Behera, Mr.
B.B.Pattnaik, Mr. B.K.Mohapatra, Ms. S.L.Pattnaik.

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O R D E R



MR. C.R. MOHAPATRA, MEMBER (ADMN.)

As these six O.As pertain to the same subject matter, this common order will govern all of them.

2. The above O.As have been filed on the subject of recruitment to Group 'D' Posts in the Railways for which an advertisement was published in the Employment Notice No.ECoR/RRC/D/2006/01 dated 28.10.2006. Briefly stated, the factual position is that applications were invited by the Railway Authorities of East Coast Railways for filling up of Group 'D' Posts in the Division/Workshop of East Coast Railways in a prescribed format in accordance with various stipulations indicated in the said Employment Notice dated 28.10.06. Para 15 of the said Employment Notice highlights about "Invalid Applications". It is stated therein that "Applications found to be having any of the following deficiencies, discrepancies or irregularities will be summarily rejected". There are 29 deficiencies/discrepancies/ irregularities enumerated under this Para 15. The Applicants have been disqualified in scrutiny due to non-compliance of the provisions of Para 15. The Applicants (in all the above six O.As) have therefore filed the present applications under Section 19 of the Administrative Tribunals Act, 1985 challenging the alleged action of the Respondents in disqualifying them and not calling them to appear at the test for the post of Junior Trackman and Helper-II as advertised vide Employment Notice No.ECoR/RRC/D/2006/01 dated 28.10.2006. The Applicants submit that there were total 5,200 posts to which

recruitment was sought to be made through this Employment Notice. They possessed the requisite qualification and also having the required age, they were eligible to be considered for recruitment to the above posts. But they came to know from the Website of the Railways that their applications have been rejected by the concerned Railway Authorities without disclosing the reason. Though they made representations nothing has been disclosed about the fate of the representations. The Applicants, therefore, sought the relief to quash the rejection of their applications as unjust, illegal and arbitrary and allow them to participate in the selection test for Group 'D' Posts in the Railways as per the advertisement.

3. The Respondents in their counter have stated that the applications submitted by the Applicants were treated as invalid in terms of Paragraph 15 of the Employment Notice. The reasons of rejection of the candidature of Applicants have been disclosed in the counter as under :-



1) In O.A. No.360/07 Para 3 of the Counter reveals that " ...even though the Applicant submitted the application it was signed at one place. Hence, as per clause-viii of Para-15 of Annexure-A/1 it is clearly stated that "(viii)-Unsigned/Undated applications "are invalid application as more than one signature is necessary. Besides that the applicant has also claimed to have submitted another application. Of course, it is not known whether he submitted the second application within or beyond the stipulated period. Even if it is submitted, then also as per Clause xxv of Paragraph-15 of Annexure-A/1, which states "(xxv) Applications of a candidate who submits more than one application in single/several envelopes", it is liable to be and has been properly declared invalid."

2) In O.A. No.361/07 In spite of opportunities the Respondents have not filed counter in this case. The ground of rejection is stated by the Applicant to be submission of more than one application.

3) In O.A. No.362/07 Para 9 of the Counter reveals that "...the application was rejected due to the reason of submission of more than one application. Paragraph 15 of the Employment Notice had clearly provided the grounds on which one's application would be treated as invalid. The Applicant's case fell under 15 (XXV) of the said notification. The conditions were laid down exhaustively and were meant to prevent cases of impersonation which has become widespread nowadays. The conditions laid down under Para-15 of the notification are all standard ones and have stood the test of time. In the greater interest of the Administration, it was thought to be very essential to follow them in both letter and spirit and as such in consideration of the fact that the applicant had sent in more than one application his application was rejected"

4) In O.A. No.364/07 Para 2 of the Counter reveals that "...It has been clearly mentioned under clause-31 (sic) of the Para-15 that candidates who submitted more than one application i.e. duplicate application in single/several envelopes are liable to be rejected. This is in line with the standard procedure laid down in Para 204.1 of Manual for Railway Recruitment Board's a true copy of which is reproduced at Annexure-R/1. The Applicants contention that they had a doubt as to the type of Indian Postal Order that was to be enclosed with the application could have been clarified from the concerned authority. By resorting to submission of more than one application form, they have clearly violated the standard instructions and their applications were rejected".



5) In O.A. No.365/07 Para 3.6 of the Counter reveals that "... The conditions laid down under Para 15 of the notification are all standard ones and have stood the test of time. In the greater interest of the Administration, it was thought to be very essential to follow them in both letter and spirit and as such in consideration of the fact that the applicant had sent in more than one application his application was rejected".



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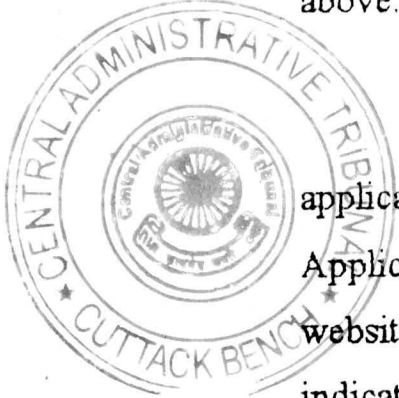
6) In O.A. No.366/07 Para 6 of the Counter reveals that "... it is submitted that the Applicant herein had submitted more than one (multiple) applications which ran contrary to the stipulation numerated at Para 15 of the Employment Notice No.ECoR/RRC/D/2006/01 dated 28.10.2006 as such his application was rejected".

4. The Respondents have further stated that more than 8 lakhs applications were received by them and after scrutiny more than 6 lakhs applications were found to be in order and, as such, the concerned applicants were called for selection test. The test was conducted in 04 phases, which were started from 16.09.2007 and completed on 07.10.2007. The candidates, whose applications were not found to be in accordance with criterion stipulated in the Employment Notice, were rejected and they were individually intimated regarding the grounds on which their applications were rejected. The result of the written test was published on 09.02.2008 But due to the interim order of this Tribunal dated 03.10.2007 that the results in respect of the Applicants were not to be published without the leave of this Tribunal or pending disposal of the O.As. whichever is earlier, accordingly, the results of the Applicants have been held up. Next stage i.e. the Physical test will be conducted shortly as per the information given in the Counter by the Respondents. On these grounds the Respondents have vehemently opposed the averments made in the O.As and have prayed for dismissal of the O.As.

5. We have heard the Ld. Counsels appearing for both the parties and also perused the materials placed on record.

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6. It is not in dispute that the Employment Notice dated 28.10.06 was published by the Railway Authorities for filling up of the post of Junior Trackman and Helper-II under the East Coast Railways. It is also not in dispute that the said Employment Notice incorporated a number of conditions for the information of all the intending eligible persons desirous of making application for consideration against the above vacancies. There is an explicit provision in Paragraph 15 of the said notice regarding "invalid applications" and with a clear stipulation that applications having the enumerated deficiencies/discrepancies/irregularities will be summarily rejected. These deficiencies etc were also spelt out in the said paragraph. It has been very categorically pointed out by the Respondents that the applications were found deficient as narrated above.



7. We observe that the grounds on which the applications were rejected were intimated to the concerned Applicants. Even the Annexure-A/3 of the O.A indicates that in the website of the Railways the status of the Applicants has been clearly indicated and there is also a mention to the effect that "reject letter posted". Hence it will not be correct to hold that the Applicants were kept in dark about their rejection. We further observe that in response to this Employment Notice against 5,200 posts, about 8 lakhs applications were received out of which 2 lakhs have been discarded in the first scrutiny leaving the field to nearly 6 lakhs applications which were found to be in order in terms of the Employment Notice. In an exercise of such a magnitude it is quite reasonable and fair to expect that the selection would have to be done resorting to a ruthless

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process of elimination. Even selection of 5,200 out of 6 lakhs Applications is a herculean task. Applicants have not brought up any instance of foul play or discrimination which would cast doubt on the process of scrutiny of the applications in terms of the conditions mentioned in the Employment Notice. It is well settled in law that the selection process conducted as per advertisement cannot be said to be vitiated.

8. By dint of interim order of the Tribunal, the Applicants were allowed to go through the written test. During the hearing of these cases, it has been brought to our notice that all of them have done so poor in their performance in written test that they could not be screened to be called to the next stage of the recruitment process i.e. physical efficiency test.

9. In the aforesaid facts and circumstances we hold that the O.As being devoid of merit deserve to be dismissed. Ordered accordingly. The M.As. accordingly stand disposed of. No costs.



Sd/-
(M.R. MOHANTY)
VICE-CHAIRMAN

Sd/-
(C.R. MOHAPATRA)
MEMBER (ADMN.)

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11.3.08
Section Officer (J)
Central Administrative Tribunal
Cuttack Bench, Cuttack

K.B.