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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 526/2013

this the 12th day of January, 2017

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HON'BLE SHRI A.K. PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

Surendra Kumar Laxman Ghusakar aged about 40 years S/o Shri Laxman Dasrath Ghusakar, AT Sant Tudkdoji, Ward Pradry Nagar, Nagar Nandori Road, Hingarghat, District Wardha, Maharashtra-01. **...Applicant**

By the Advocate : Shri D.R.Swain

-VERSUS-

1 Union of India represented through Secretary, Ministry of Railway, Railway Bhawan, New Delhi- 01.

2-General Manager, East Coast Railway, E.Co.R.Sadan, Chandrasekharpur, Bhubaneswar-17 Dist.Odisha.

3-Chief Personnel Officer, E.Co.R. Sadan, Chandrasekharpur, Bhubaneswar-17 Dist.Khurda.

4-Deputy Chief Personnel Officer (Recruitment), Railway Recruitment Cell, East Coast Railway, Chandrasekharpur, Bhubaneswar-17 Dist.Khurda.

...Respondents

By the Advocate : Shri C.R.Mishra

ORDER

Per R.C.MISRA, MEMBER(A) :


Challenging the cancellation of his candidature against Employment Notice No. ECoR/RRC/D/2006/01 dated 28.10.2006 (Annex.R/1) by the authorities of the East Coast Railways, applicant has approached this Tribunal with a prayer that impugned orders dated 24.7.2012 (Annex.A/3) and 21.2.2013 (Annex.A/6), be quashed and he should be given appointment against the post for which he was selected by the authorities.

2. The facts of this matter are that an Advertisement dated 28.10.2006 was issued by the Dy. Chief Personnel Officer (Recruitment), Railway Recruitment Cell, East Coast Railway, who is respondent No. 4 in this case, for filling of the posts of Junior Trackmen and Helper-II. In pursuance of this, applicant had submitted his application before respondent No.4 and, consequently, a call letter was received for appearing

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in a Written Test. Applicant appeared in written examination held on 23.9.2007 and thereafter, undergone a Physical Efficiency Test (PET) on 27.3.2008. He was having a reasonable expectation of getting appointment under the East Coast Railway as he had succeeded in the selection and prepared for verification of his original documents. He came to know that his name has not been empanelled. The Dy. Chief Personnel Officer, In-charge (Recruitment), sent a letter dated 24.7.2012 at the applicant's address stating that while he had already appeared in the written examination and the PET as required, but, subsequently on verification of his Application submitted by him, a defect was noticed. The exact defect was that "application without full signature in the box provided below the space for pasted photograph". In view of Para 15 of the employment notification, applications with the above deficiencies need to be rejected, therefore, he was being given an opportunity in writing as to why his candidature should not be cancelled. The applicant thus being aggrieved, approached this Tribunal in OA No. **1056/2012** and, at the stage of filing, this Tribunal gave an opportunity to the applicant to submit his reply to the show cause notice within a period of 15 days from the date of receipt of copy of that order and respondent No. 4 was directed to consider the same and communicate the decision thereon by a reasoned and speaking order within a period of 45 days from the date when applicant's reply would be received and the OA was accordingly disposed of on 8.1.2013. In view of this order, applicant submitted his reply on 30.1.2013 to respondent No. 4 i.e. Deputy Chief Personnel Officer (Recruitment), East Coast Railway. His contention was that he had put his full signature in other parts of the application but he put his short signature below the photograph due to shortage of space for which he should not be penalized. He further mentioned that respondents' letter dated 24.7.2012 was received by him only in the month of December 2012 which is the reason why he could not give a reply in time. Applicant further submitted that the specimen signature was verified already by the authorities at the time of written examination and PET and no discrepancy was noticed by them; therefore, the objection raised by the respondents was absolutely on flimsy grounds and was arbitrary. The respondents, thereafter, rejected his candidature by



issuing a letter dated 21.2.2013 which has again compelled the applicant to approach this Tribunal by filing this O.A. Therefore, the prayer of the applicant is that the orders of the respondents dated 24.7.2012 and 21.2.2013 should be quashed and applicant should be appointed to the post since he has come-out successful in the written test and the PET.

3. The respondent-authorities filed a counter affidavit admitting the factual submissions made by applicant specifically mentioning that he had appeared in written test on 23.9.2007 and then in PET conducted during the period from 24.3.2008 to 6.4.2008. The application forms of the candidates were subjected to scrutiny at different stages during the selection process and during scrutiny, it was observed that applicant had put his short signature below the pasted photograph in the application form and ~~small~~ signatures were in short form instead of full signatures as essential as per the terms of the Notification dated 28.10.2006.
4. As per direction of this Tribunal, respondents have considered the explanation of applicant dated 31.10.2013 and by passing a reasoned order dated 21.2.2013 rejected his request/explanation. It is alleged by respondents that applicant knowingly committed mistake by over - stepping the instructions as per notification, and therefore his candidature was rightly rejected. He was given an opportunity through a letter of 24.7.2012 to explain in writing by 23.8.2012 as to why his candidature should not be cancelled. Being dis-satisfied, he had filed OA No. **1056/2012** before this Tribunal and as per the orders issued by this Tribunal, applicant submitted his representation dated 31.1.2013 which was disposed of by a speaking order dated 21.2.2013. The reply of the applicant was not satisfactory and was not conforming to the stipulations of employment notice and that is why his candidature was cancelled. The respondents have further argued that submission of a correct application form is an important part of selection process. Several similarly placed applications were rejected at the initial stage and they were not called for written examination. Applicant, however, was erroneously called for written test and PET which by itself does not confer any right on him for

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appointment. Further, it is stated that the Railways is a model employer and in order to ensure that a recruitment is free from corruption and discrimination etc., applications are verified at several stages and also by the departmental vigilance organization. Therefore, even though a defect in application form was noticed after the applicant participated in the selection process, the order of cancellation has been issued with good reasons. With these submissions, respondents have defended their action for rejecting the candidature of applicant.

5. We have heard learned counsel for both sides in extenso and perused the records.

6. The learned counsel for applicant has submitted that the name of the applicant "*Surendra Kumar Laxman Ghusekar*", being very long, the same could not be placed in the box provided as the space was very short to accommodate full name of applicant, hence the signature at all the places in the application form were made in the same way like the signature put in the box. Further, submission of learned counsel for applicant is that after issuance of call letter for appearing in the written examination and PET, respondents are estopped to cancel the candidature after the selection process was started. The ground advanced for cancelling applicant's candidature, is apparently flimsy and arbitrary. The learned counsel has cited decisions of Hon'ble the Apex Court reported in AIR 1990 SC 1075 and AIR 1993-27 & 2010 (11) OLR (SC) 636, in support of his submissions.

7. The learned counsel has argued that in view of the doctrine of promissory estoppel, respondent-authorities are estopped from cancelling candidature of applicant once they have allowed him to appear in the process of selection. In this regard, applicant has stated that he has been declared successful at both the levels, still respondents are not giving appointment and, therefore, the question before us is whether the candidature of the applicant can be cancelled after he has been allowed to participate in written test and in the physical efficiency test. On the other hand, the learned counsel for the Railways has argued that the employment notification is a most important document and, at Para 9 of the same, it has

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been noted that the signature of the applicant must be full and in running hand and further, the signatures made in capital letters, will not be accepted. Being fully aware of this provision, applicant submitted his application form putting his short signatures and therefore it will be taken as a serious lapse committed on his part. A copy of the application form submitted by applicant in response to the employment notice is available for perusal. We find from the box provided under the pasted photograph that applicant has put his short signatures although, it is stipulated that applicants' full signatures would be essential. The submission of applicant is that his name is very long and full signatures cannot be accommodated in the small box provided. This argument is acceptable in the case in hand, as it appears that applicant could not have put his full signatures in the given space. On looking further, we find that at the bottom of application form at column 17 it has been written that candidates should put their full signatures in English & Hindi as well, in running script. It appears that, here also, applicant's same signature called by the respondents, 'as short signatures', are appearing. There was adequate space in this column for the ^{applicants} ~~incumbents~~ to put their full signatures and it is not understood as to why the applicant, instead of putting full signature put his short signatures. There is another page of the application form in which at column 9 full sample signature was to be given in running in Hindi and English but, here also, applicant has put his short signatures. At the bottom of the application form under column 14 again, applicant has put his short signature even though stipulation is for putting full signature.

8. Apparently, respondent authorities have also failed to detect the mistake at the time of verification of forms and, this shall be called a failure on the part of Administration. After applicant appeared in the written test as well as the PET, they detected this defect that too, at the instance of vigilance authorities as per their own admission. Therefore, the question arises as to whether at a later date, the application could be rejected if some lacunae is noticed. Learned counsel for Railways has argued that in other cases where such lacunae was noticed, applications were rejected and only

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 difference in the present case is that defect was noticed at a later point of time and not at the time of initial verification of the application form.

9. Learned counsel for applicant has pleaded that doctrine of promissory estoppel shall apply to this case and having admitted the applicant to the process of selection, the respondents are estopped from cancelling his candidature. He has cited decisions of Hon'ble Apex Court in the case of **UOI & Ors. Vs. Miss Pritilata Nanda** as reported in 2010 (II) OLR SC 636 in which it was held that "once the candidature of the respondent was accepted by the concerned authorities and she allowed to participate in the process of selection it was not open to them to turn around and question her entitlement."

10. Another decision of Hon'ble Apex Court in the matter of **Sanatan Gauda Vs. Berhampur University** as reported in AIR 1990 SC 1075, has been cited, wherein, the Hon'ble Court had held as under :

"10. This is apart from the fact that I find that in the present case the appellant while securing his admission in the Law College had admittedly submitted his mark-sheet along with the application for admission. The Law College had admitted him. He had pursued his studies for two years. The University had also granted him the admission card for the Pre-Law and Intermediate Law examinations. He was permitted to appear in the said examinations. He was also admitted to the final year of the course. It is only at the stage of the declaration of his results of the Pre-Law and Inter-Law examinations that the University raised the objection to his so-called ineligibility to be admitted to the Law course. The University is, therefore, clearly estopped from refusing to declare the results of the appellant's examination or from preventing him from pursuing his final year course."

11. In the OA under consideration, applicant has also been allowed to appear in the written examination as well as PET. At a later stage, it was held that he has not put his full signature in the application form and, therefore, his candidature was cancelled. Counsel for respondents argued that the candidates whose applications were having similar defect were debarred from appearing. However, they have not rejected applicant's application during its verification and the question is whether they can raise such an issue after he was allowed to participate in the examinations. The nature of the defect also has to be seen. The defect pointed out is that applicant did not put his full signature and on the other hand he put his small signatures in the application form. There is also a confusion about

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what "*full signature*" means. The applicant in application form has also given his Sample Signatures. It is quite possible that applicant has done this in good faith that he is supposed to put his signature and not write his full name. Therefore, it might be a matter of communication gap and in any case at the time of verification of the application form or at the time when he appeared in the written test/PET this defect could have been rectified. The cause of rejection has to be serious enough so that applicant who is otherwise successful on merit, is not prevented from being recruited. If the respondent authorities have not exercised due diligence in this regard, the same is not the fault of the applicant. Learned counsel has strongly argued about the doctrine of promissory estoppel saying that once the applicant was admitted in written test and PET, respondent-authorities are estopped from cancelling applicant's candidature. He has relied upon decisions of Hon'ble Apex Court as already discussed above and we find substance in the argument of learned counsel.

12. Learned counsel for respondents has no doubt argued that employment notice is the most important document and any deviation from the same would render candidature of an applicant ineligible. However, one has to examine the seriousness of the defect. In the present case, the defect detected at a later stage would not be considered serious enough to debar a candidate from being appointed if he has been selected on the basis of his merit. While dealing with this matter, we would be failing in our duty if we do not give justice to the applicant because of some administrative failures on the part of respondent authorities. Applicant has undergone a recruitment process and also had some legitimate expectations. Once a candidate has been admitted to the process of written examination and was thereafter put through PET, he certainly will have a legitimate expectation of getting an employment. In the present socio economic situation, for a young person, the expectation of getting a job would be the biggest

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expectation of his life. In process of recruitment and selection if someone has come out successful, raising an objection of such nature that too at the penultimate moment, would certainly bring frustration to such individual. We, therefore, do not find any legitimate ground for rejection of the candidature of the applicant. In this regard, we have perused the judgments of Hon'ble Apex Court also as cited above and find that in respect of recruitments as well as academic examinations, Hon'ble Apex Court in similar matters had taken a view that respondents having admitted someone cannot snatch-away his chances at the penultimate moment by raising such objections. We, therefore, find merit in this case and accordingly, we quash the impugned orders dated 21.2.2013 and 24.7.2012 and direct the respondents to issue an offer of appointment to the applicant, if, he has been selected as per merit within a period of **90 (ninety)** days from the date of this order. The O.A. is thus allowed.

13. No costs.


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)