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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 260/00014 OF 2014
Cuttack, this the ~~13~~¹⁴ day of October, 2017

CORAM

HON'BLE MR. S. K. PATTNAIK, MEMBER (J)
HON'BLE DR. M. SARANGI, MEMBER (A)

.....

Narendra Gopichand Deshbhratar,
aged about 39 years,
Son of Gopichand Samaji Deshbhratar,
Permanent resident of Vill- Laskharibag,
PO-Ambedkar, Circle No. 15/21,
Nagpur-17 Maharastra.

...Applicant

By the Advocate-M/s. N. R. Routray, Smt. J. Pradhan,
T. K. Choudhury, S. K. Mohanty

-VERSUS-

Union of India Represented through

1. General Manager,
East Coast Railway, E.Co.R Sadan,
Chandrasekharpur, Bhubaneswar,
Dist-Khurda.
2. Chief Personnel Officer,
East Coast Railway, E.Co.R Sadan,
Chandrasekharpur, Bhubaneswar,
Dist-Khurda.
3. Deputy Chief Personnel Officer (Recruitment),
Railway Recruitment Cell, 2nd Floor,
E.Co.R Sadan, Chandrasekharpur,
Bhubaneswar-17, Dist-Khurda.

...Respondents

By the Advocate- Mr. M. B. K. Rao

.....

88.8.2017
12/10/17

ORDER

S.K.PATTNAIK, MEMBER (JUDL.):

The applicant, in the second of litigation, has filed this O.A. for quashing of the show cause notice dated 24.07.2012 (Annexure-A/4) and the order of rejection of his candidature passed vide order dated 12.12.2013 (Annexure-A/8).

2. Earlier, the applicant had approached this Tribunal in O.A.No. 702/2013 against the rejection of his candidature. This Tribunal by its order dated 20.11.2013 without going into the merit of the matter directed the Respondent No.3 (Dy. Chief Personnel Officer Recruitment, Railway Recruitment Cell, 2nd Floor, South Block, E.Co.R. Sadan, Samant Vihar, PO- Mancheswar, Bhubaneswar, Dist. Khurda) to take a decision on the reply submitted by the applicant to the show cause notice dated 31.08.2012 and to communicate the decision in a reasoned order to the applicant within a period of 60 days and till a reasoned order is communicated to the applicant one post for which the applicant had applied shall be kept vacant. In response to the said direction of this Tribunal, the competent authority passed the speaking order dated 12.12.2013, which is impugned in this O.A.

3. This being the second round of litigation, the validity and legality of the speaking order needs to be scrutinized. The rejection order of candidature of the applicant has resulted due to the fact that even though the applicant submitted his application for the post of Jr. Trackman and Helper Grade-II notified vide letter dated 28.10.2006 but without his full signature in the box provided below the space. According

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to the authorities, there was clear instruction in the Advertisement/Employment Notice under Para 9 (iii) that full signature in running script in English or Hindi should be given in the box below the photograph and also the signature of the applicant must be full in running hand. According to the Respondents, the applicant did not follow these instructions while filling up the application form and had not put his full signature in application form in running script and as the application was found defective as per Paragraphs 9(vi), 15(xii) and 15(xv) of the notification, the candidature of the applicant for the recruitment became invalid. The speaking order further discloses that application forms submitted by the candidates with similar deficiencies have been initially rejected and not called for written examination but erroneously the applicant was called for in the written test and PET, which does not confer any right upon him for such appointment.

4. Coming to the original pleading, it is the consistent plea of the applicant that he had put his full signature and not short as alleged in the show cause notice and as such his rejection was illegal. Had the Respondents taken pain in furnishing copy of the application form of the applicant in the earlier O.A., the matter could have been dealt itself in the first O.A. without dragging for the second round litigation.

5. On going through the application form filled up by the applicant in his own handwriting (Annexure-R/2), it is crystal clear that wherever there is indication of applicant's full signature in English or Hindi in running script, the applicant has given his short signature and

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has not mentioned his full name that too in running script. The whole purpose of directing the applicant to put full signature in English or Hindi in running script is to facilitate the Handwriting Expert for a writing comparison. By giving short signature, the applicant not only flouted the specific instruction of the Recruitment Cell but also closed the door of comparison by Handwriting Expert. There is absolutely no explanation as to why he did not put his full signature and made a signature as is done by official in the official records, which is not accepted from the candidate. Once, a candidate flouted specific instruction of the recruitment process, he cannot be permitted to take mileage of the fact that he was called for Written Test and Physical Efficiency Test. Ld. Counsel for the applicant has placed reliance on a decision of this Tribunal in O.A. No. 526/2013 (Surendra Kumar Laxman Ghusakar Vs. UOI) wherein the Tribunal observed that not giving full signature was not so serious to debar a candidate from the appointment as the defect was detected at a later stage and directed for issue of offer of appointment. No doubt the said order of this Tribunal was upheld by the Hon'ble High Court in W.P.(C) No. 6268 of 2017 vide order dated 01.05.2017 and there was no difficulty in issuing a similar instruction by this Bench but Mr. M.B.K.Rao, Ld. Counsel for the Official Respondents, has drawn attention of the Bench to the judgment of the Hon'ble Apex Court in the Special Leave to Appeal (C) No(s). 706/2014 in the case of Union of India & Anr. Vrs. Sarwan Ram & Anr. wherein Their Lordships analyzing the


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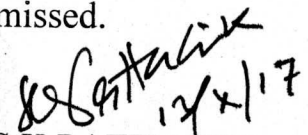
responsibility of the candidate for filling up of application form as per Employment Notice has been pleased to observe as follows:

"Condition No. 8.7(i) is one of the conditions mandate mentioned in the employment notice. We are of the view that in non-compliance of such condition, it was always open to the competent authority to reject such application being incomplete. Respondent No. 1 having failed to do so, the competent authority has rightly rejected the application. In such circumstances, it was not open to the High Court to direct the authorities to consider the case of respondent No. 1 for appointment, sitting in appeal over the scrutiny of application by referring to certain certificate of length of service. High Court under Article 226 of the Constitution of India is not competent to scrutinize the applications filed for appointment and cannot substitute its own opinion based on some evidence to come to a conclusion whether the application from is defective."

6. In view of the aforesaid authoritative pronouncement of the Hon'ble Supreme Court, once the form was not filled up properly or rather contrary to the specific direction issued in the advertisement, no right percolates to the applicant to claim overlooking of such deficiency merely because the applicant has cleared the other test. According to Their Lordships, what to speak of this Tribunal even the Hon'ble High Court is not competent to scrutinize such defective application filed for appointment and also cannot substitute its own opinion. Since there is nothing wrong in the order and approach of the competent authority in rejecting the candidature of the applicant for not filling up the form properly, no interference is called for. Hence ordered.

7. The O.A. being devoid of merit is dismissed.


(M. SARANGI)
Member (Admn.)


(S.K. PATTNAIK)
Member (Judl.)