

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 78/2013

Reserved on : 19.05.2016

Jodhpur, this the 27th day of May, 2016

CORAM

Hon'ble Mr. U.Sarathchandran, Judicial Member

Hon'ble Ms. Praveen Mahajan, Administrative Member

Madhubala D/o Sh. Sampat Singh Parihar, W/o Sh. Mukesh Gaur,
aged about 29 years, resident of House No.23-24, Gali No. 5, Ram
Mohalla, outside Nagori Gate, Jodhpur

.....Applicant

By Advocate: Mr. Deepak Nehra

Versus

1. Union of India through the General Manager, North Western Railway, Headquarter, Jaipur
2. The Assistant Personnel Officer, North Western Railway, Jaipur
3. The Dy. Chief Personnel Officer/ Recruitment, North Western Railway, Jaipur

.....Respondents

By Advocate : Ms. Anjana Jawa

ORDER

Per Ms. Praveen Mahajan, Administrative Member

The applicant has approached this Tribunal by filing OA No.78/2013 regarding rejection of her candidature in the written examination held on 27.05.2012 for Group-D post in response to a

been averred in the OA that she was called for the written examination held on 27.05.2012. The applicant was declared successful in the written examination. She secured 60.95% marks. However, she came to know that her candidature has been rejected. She sought information under the RTI Act about the cut-off marks and the reason for rejection of her candidature. Vide communication dated 23.10.2012 (Ann.A/3), the applicant was informed, that she secured 60.95 % marks whereas cut off marks for OBC category were 55.63%. She was also informed that her candidature has been rejected as in the OMR sheet she did not fill up the circle in Column-4 in respect of her assigned roll number.

On going through this information, she submitted a representation dated 16.11.2012 to respondent No.2, the Assistant Personnel Officer, NWR, Jaipur (Ann.A/5). The same remained unanswered. The applicant submits that this action of the respondents in rejecting her candidature for appointment to Group-D post is arbitrary and unreasonable as also violative of Article 14 and 16 of the Constitution of India. She further submits that this was absolutely an inadvertent error on her part due to which this slip up happened. Citing the general guidelines regarding conducting of written examination issued by the Railways, the applicant submits that it is the duty of the invigilator to ensure that answer sheet is properly filled up (Instruction

No.24-V). She pleads that it would be extremely unfair if her candidature is rejected on this technical ground alone. Hence, the OA may be allowed and she may be allowed to join on the post of Group-D as per her merit.

2. In their reply, the respondents have submitted that first of all, the general guidelines submitted by the applicant, clause-24, do not cast a 'mandatory responsibility' upon the invigilator to check whether a candidate has made all entries properly in the answer sheet. In any case, such instructions only have a guiding effect on the invigilators, since it would not be possible for an invigilator to practically check each and every answer sheet to ensure correct entries by all the examinees. In normal course, such numbers might run into hundreds or even thousands. Hence, it is the specific duty of each and every candidate himself/herself to ensure that the columns in the answer sheets are correctly filled up. Since the applicant has not done so, hence, her candidature has been rightly rejected.

3. Heard both the counsels.

4. Counsel for the applicant while taking us through the facts of the case, again reiterated that as per Sl.No.24 of the general guidelines, the invigilator must ensure that all roll numbers are correctly filled up by the candidates. In the instant case, the

though the roll number has been correctly written in words. Solely, on the ground of no darkening of the circle, in column-4 (Ann.A/4), the rejection of her candidature is extremely unfair and unreasonable. As informed by the respondents, the applicant figures in the merit list, having secured 60.95% marks as against the cut off of 55.63% marks for OBC candidates.

In support of his averments, the learned counsel for the applicant also produced the following judgments of the Hon'ble High Court at Jaipur and Jodhpur.

- i. D. B.Civil Special Appeal (Writ) No.746/2013 – Hanuman Sahay Junawa vs. The State of Rajasthan and Ors. decided on 27th September, 2013 by Jodhpur Bench.
- ii. D.B.Special Appeal (Writ) No.875/2015 – State of Rajasthan & Anr. Vs. Data Singh and other D.B.Special Appeal (Writ) decided on 31st July, 2013 by Jodhpur Bench.
- iii. Civil Writ Petition 8216/2009 – Deendayal Sunriwal vs. State & Ors. and other Civil Writ Petitions decided on 04.12.2009 by the Jaipur Bench

5. Responding to the averments made, the learned counsel for the respondents stated that the selection process has already been completed in the year 2012. It is not correct to say that mistake committed by the applicant was of a technical nature only. Since the entire process of evaluation of answer sheets is

computerized, the machine would automatically reject erroneously filled up entries. It was informed to the Tribunal that after scrutiny of written papers, candidature of 1843 candidates, has been rejected on similar ground. The said 1843 have also, reportedly, secured more than the cut off marks. Hence, the respondents have acted correctly and as per requirements under the guidelines/regulations, for conducting the examination. Their action cannot be termed as illegal by any stretch of imagination.


6. We have gone through the facts of the case and considered the rival contentions of both sides. The case of Deendayal Sunriwal vs. State & Ors. (supra) quoted by the applicant is different to the one under scrutiny. In that case, the petitioners had mentioned wrong post code and were not allowed to participate in the examination. Hon'ble High Court allowed them to participate in the examination and consider them for appointment as per order of merit. The other judgment cited by the learned counsel for the applicant i.e. State of Rajasthan vs. Datar Singh (supra) is also not applicable in the facts and circumstances of the present case. In the case of DB Civil Writ Petition No.746/2013 decided on 23.09.2013 cited by the applicant, the Hon'ble High Court has held that in cases of bonafide and inadvertent mistake, the error can be permitted to be rectified with necessary directions to the respondents. **"However such a**

mistake should not cast prejudice to any one else". In the instant case, the rectification of this mistake is likely to cause prejudice to 1843 similarly placed candidates. Huge number of candidates appeared in the examination, qualified it, and, the selection process attained finality in the year 2012. Condoning this error, as an isolated case, is not justifiable especially since, reportedly, there were almost 2000 such candidates whose candidature has been rejected on similar count by the respondents. Allowing this OA, would tantamount to opening a Pandora's box and would be extremely unfair to the other successful and in some cases, more meritorious candidates who are likely to get affected by this intervention, if granted, on the back of those candidates. We have also to kept in mind the number of vacancies which were available (about which the respondents are not very clear). Assuming, but not accepting, if all the 1843, similarly placed candidates, are allowed to take the examination again, some of the already successful candidates might lose their jobs, if they are displaced by the new lot of examinees. Such an intervention by this Tribunal, will cause hardship to them and ruin their career and lives. Hence, the plea of the applicant that the inadvertent error, committed by her, in not filling her roll number properly, should be condoned, is not tenable.

7. In this context we wish to refer to the decision of Hon'ble Apex Court in Secretary, Tamilnadu Public Service Commission v. A.B.Natarajan and others, AIR SCW (2014) 5746. In that Judgment the Hon'ble Apex Court while adjudicating the case of a careless applicant observed:

"If he has not been bothered about the instructions in the written examination, he cannot be expected to become an officer who would be fair and straightforward."

8. Keeping in view all these facts, we feel that order Ann.A/3 in the OA does not merit any intervention by this Tribunal. Accordingly, the OA is dismissed with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member


(U.SARATHCHANDRAN)
Judicial Member

R/