

**CENTRAL ADMINISTRATIVE TRICENTRAL
LUCKNOW BENCH**

Original Application No.502/2007
This the 23rd day of December 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J).

HON'BLE DR. A.K. MISHRA, MEMBER (A).

Jitendra Kumar Gupta aged about 27 years, S/o Shri Sheo Prasad Gupta, R/o C/122/23, Muftipur, Gorakhpur, Uttar Pradesh.

...Applicant.

By Advocate: Shri P.K. Srivastava.

Versus.

1. Union of India through Chairman Railway Board, Baroda House, New Delhi.
2. Chairman, Railway Board, Baroda House, New Delhi.
3. Chairman, Railway Recruitment Board, North Eastern Railway, Gorakhpur.
4. General Manager, North Eastern Railway, Gorakhpur.
5. Chief Personal Officer, North Eastern Railway, Gorakhpur.


... Respondents.

By Advocate: Shri N.K. Agawal.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed the OA with a prayer to issue direction to the respondents to consider the candidature of the applicant for the vacancy of Haemo-dialysis Technician, without rejecting on the



grounds that he submitted application form as per employment notice and no contraventions are there.

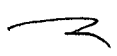
2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that the respondent authorities have rejected the candidature of the applicant for non-furnishing the information as required vide Employment Notice and thus, prayed for dismissal of OA.

3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and reiterated the pleas taken in OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

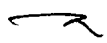
6. The admitted facts of the case are that in pursuance of advertisement under Employment Notice Dt.4-10 March , 2006 under the category No.228, the applicant submitted his application for the post of Haemo Dialysis Technician , which was notified for B.C. category. The applicant, who is eligible for such post, submitted application form and after receiving call letter, he appeared in Written examination held on 08.10.2006. Thereafter, on being successful in the written examination, the applicant has been called by the board for verification of documents on 27.12.2006, accordingly, he appeared before the authorities with all required certificates alongwith no objection certificate (Ann.A-7) from his department, where he was working, at the time of submission of application form. Alongwith the applicant only one more candidate had been called for



verification of documents. Thereafter, when there was no information about the result of selection, the applicant approached the authorities vide Right of Information Act, 2005 and thereafter, he came to know through letter Dt. 19.10.2007 (Ann.A-9) that his application was rejected on the ground that he did not submit no objection certificate from his earlier department and also not completed Column-6 of the application form and thus, not followed the procedure prescribed under item No. 9.1 and 18 (i) of the advertisement notice. Aggrieved by the same, he filed this OA.

7. It is also not in dispute that after completion of his Diploma in Dialysis Techniques Course in the year 2004, the applicant joined on the post of Renal Technician in May , 2005 in Andaman and Nicobar Health Department, on adhoc basis for the period of one year. The applicant submitted his application for the post in question i.e. Haemo Dialysis Technician, while working in Andaman and Nicobar Health Department and has not enclosed no objection certificate from the department alongwith the application form though filled up the relevant Column.

8. It is the case of the respondents that the applicant has not filled up the requirements prescribed in the employment notice (Ann-1) and left Item No.6 of his sheet and in such circumstances, the candidature of the applicant is liable to be rejected at any stage, when deficiency is noticed and thus justified the act of respondents in rejecting the candidature of the applicant. The respondents also contended that the impugned selection was finalized and panel for



selected candidates is already issued but the applicant's candidature was rejected after verification.

9. Ann-A-1 is the Railway Recruitment Board Employment Notice No. 02/2006 and category No. 228, relates to one Haemo Dialysis Technician (HDT) post in N.E. Railway. Column No. 2.8 of instructions, it makes clear that admission to the examination centre is provisional. It also stipulates that in case a candidate does not fulfill the entire requirement prescribed in the employment notice, his / her candidate is liable to be rejected at any stage, when deficiency is noticed. Mere issuing of call letter for appearing in the examination by Railway Recruitment Board does not confer any right for any subsequent stage of recruitment process or placing his/ her name on the panel.

10. Column No.9 relates to serving employees as follows:-

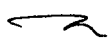
9.1

"A candidate serving under any Government or Public Sector Enterprise/Undertaking, including Railways, can send an advance copy of the application complete in all respects including enclosures within the notices period and their applications sent through proper channel should follow at the earliest. Such candidates can send their application directly to RRB enclosing a "No Objection Certificate" issued by the employer."

Column No.15 relates to enclosures should be firmly attached alongwith the complete application form and Personal date sheet which shows as follows:-

Column No.15

The following enclosures should be firmly attached alongwith the completed Application /Form & Personal Date Sheet.

- (i). A Valid Indian Postal Order or Demand Draft of the prescribed value (applicable only OBC and UR candidates).
 - (ii). Attested copy of Caste Certificate (applicable only for SC/ST/OBC candidates).
 - (iii). OBC Declaration from (applicable only to OBC candidates).
 - (iv). Attested copy of Discharge Certificate in the case of Ex-service candidates.
- 

- (v). Photographs (one pasted on the application form & one additionally to be attached).

Column No. 16.6 reads as under:-

Originals or Copies of academic/technical qualifications should not be sent along with the application. They should be produced as required later by RRB".

Column No. 18 deals with invalid applications, which read as under:-

Candidates must ensure that application is complete in all respects. The applications which suffer from the following deficiencies will be summarily rejected.

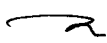
- (i). Incomplete or illegible application.
- (ii). Application and information sheet not as per prescribed size (A-4) and format/missing columns as per Employment Notice.
- (iii). Unsigned or/and undated applications or writing name in Capitals/ open letters under signature column.
- (iv). Without the latest and clear photograph pasted on the application form.
- (v). Applications without signatures.
- (vi). Applications without two clear identification marks.
- (vii). Applications without clear Left hand Thumb Impression.
- (viii). Applications without the declaration paragraph (item No.10 of information Sheet) in running handwriting.
- (ix). Applications of under aged or over aged candidates.
- (x). Applications without the requisite Demand Drafts or Indian Postal orders or purchased before the date of employment notice or after the last date or value less than the prescribed (applicable only to UR and OBC candidates).
- (xi). Applications without proper Caste certificate in respect of SC/ST/OBC candidates.
- (xii). Applications without the creamy layer certificate and / or declaration (applicable only OBC candidates).
- (xiii). Photographs of Caste certificates not attested by a Gazetted Officer.
- (xiv). Applications received after the closing date and time."

11. From this Employment Notice (Ann-1), it is clear that admission to the examination and issuance of call letter does not fulfill the entire requirement prescribed in the employment notice and the candidature of the applicant is liable to be rejected at any stage, when deficiency is noticed. In view of such stipulation of terms, it is not open to the

applicant to say that permitting him for appearance of examination itself satisfied the requirement prescribed in employment notice and the authorities have no right to verify or find fault in respect of any deficiency or defect in the application form at later stage.

12. Column No.9, is in respect of serving employees, it stipulates that the candidate, can send the copy of the application either through his department or he himself can send it directly by enclosing "No Objection Certificate" issued by the employer. In the instant case, the applicant sent his application form directly to RRB but not enclosed no-objection certificate, alongwith the application. Nothing is mentioned in the column in respect of enclosure of 'No objection certificate' of the employer either as mandatory or compulsory.

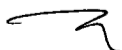
13. It is also the case of the respondents that there was defect in the application form and information sheet submitted by the candidate. Admittedly, certain Proforma is given as Ann-2 and 3. In filling the entries of Ann-2 and 3 columns, no objection are there from the respondents except in respect of Column No.6 of Ann-3, which relates to government employees. It is the case of the respondents that the applicant has not enclosed no objection certificate from his employer relating to Column N.6, thus, he gave false declaration, which itself disqualifies the candidature of the applicant. Admittedly, it is not the case of the respondents that the applicant has not filled up Column No.6 or left it blank, but only objection is non furnishing of no-objection certificate from his employer.



14. When the applicant filled up Colum No.6 , giving information of his present employment and other details as required, non furnishing or enclosing no objection certificate from his employer is not at all justified since there is no such requirement there, for enclosing no objection certificate and in such circumstances the arguments of the respondents that the applicant furnished any false information or concealed or suppressed any thing, which disqualify him for the post applied is not at all correct and justified.

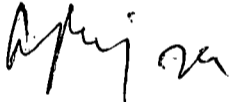
15. He also filed subsequent Employment Notice No. RRB/GKP/01/2008 inviting application for the post of Section Engineer, Joint Engineer etc. in which the Board has specifically mentioned the consequences for not filing NOC from the employer will be rejected.

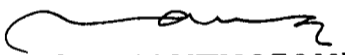
16. A perusal of the said Employment Novice Column No.10 'f' in respect of enclosures and Column No.11-xviii invalid application and Column-21 Annexure-4 check list for proper filing of application clearly shows accompanying of no objection certificate from the employer, if the applicant is already in service and the same also clearly shows, if the candidate fail to furnish such No Objection Certificate his application will be rejected. In the instant case, when the respondents have issued Employment Notice covered under Annexure-A-1 no such conditions are imposed on the candidates for accompanying 'No Objection Certificate' from the employer and also rejection of his application or candidature in case of non-furnishing the same alongwith application form. Without mentioning anything in the Notification and also without showing of any such intention of the



authorities making mandatory on the part of the applicant enclosing 'No Objection Certificate' alongwith application from, the respondents are not at all justified in rejection of the candidature of the applicant or his application on such ground at the time verification of the documents after the applicant succeeded in his written examination.

Under the above circumstances, the rejection of the application of the applicant on the ground that he has not enclosed 'No Objection Certificate' issued by the employer alongwith his application form is invalid and illegal and as such, the claim of the applicant is allowed with a direction to the respondents to consider the candidature of the applicant for the vacancy of Haemo Dialysis Technician without rejecting and thus, OA is allowed. No costs.


(DR. A.K. MISHRA)
MEMBER (A)


(M. KANTHAIAH)
MEMBER (J)
23.12.08

AK/.