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OA 131 of 2006

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 131 of 2006

Date of order : 29 January, 2008

C O R A M

Hon'ble Mr. Justice P.K. Sinha, Vice-Chairman
Hon'ble Mr. Amit Kushari, Member[Admn.]

Sri Prakash s/o Sri Ram Pratap, resident of village – Kanhauli, P.S. -
Bajitpur, District – Patna.

..... **Applicant**

Vrs.

1. Union of India through the Chairman, Railway Board, New Delhi.
2. The Railway Recruitment Board, Allahabad.

..... **Respondents**

Counsel for the applicant : Shri S.K. Bariar
Counsel for the respondents : Shri R. Giyaghey, ASC

O R D E R

Amit Kushari, Member[A] :-

The applicant had applied for the post of Driver in the Railways in pursuance of an advertisement published by the Railway Recruitment Board on 9.7.2004. The advertisement notice mentioned that the applicant should possess the qualification of matriculation with some technical degrees from I.T.I etc. The applicant possesses a degree of Madhyama from Bihar

Sanskrit Shiksha Board and he also possess one year diploma in mechanical diesel. The applicant received an admit card and he appeared in the written examination as well as in the psychological test. He also appeared in the eye test and qualified in all those examinations and tests. On 28.11.2005 the result of the tests were published in the news paper "Hindustan" and the applicant was declared successful. However, on 31.12.2005, the Railway Recruitment Board, Allahabad declared the final result and the roll numbers of all the successful candidates were published. However, it was mentioned in that result [Annexure-A/1 of this O.A.] that Roll No. 3127819 [which is the roll number of the applicant] has been found to be ineligible because the Bihar Sanskrit Shiksha Board, Patna is not recognized by the Railway Board and Govt. of India and, therefore, the Madhyama certificate issued by the Bihar Shiksha Board cannot be taken as equivalent to matriculation.

2. The ld. counsel for the applicant, Shri S.K. Bariar drew our attention to an order of the Bihar Govt. dated 11.1.1999 [issued by the Department of Secondary Education] in which it has been notified that the Madhyama Examination conducted by the Bihar Sanskrit Shiksha Board would be taken as Matriculation/Madhyamik Examination for entry into Govt. service. The ld. counsel for the applicant also points out that this order

was also published in the Bihar Govt. Gazette on 1st August, 2001 which has been annexed with this O.A. as Annexure-A/7.

3. The ld. counsel for the respondents Shri R. Griyaghey has pointed out that the Railway Recruitment Board does not examine in detail all the numerous applications and almost every applicant is asked to appear in the written and psychological test. The respondents have mentioned in the written statement that only after the preliminary tests are over the certificates of the successful candidates are carefully examined and those candidates who do not fulfill all the conditions and could not produce the correct certificates are removed from panel. He also points out that just because the applicant had passed the written and psychological test does not make him eligible for being qualified for appointment and does not confer any legal right on him.

4. The crucial point to be decided in this case is whether the Railway Recruitment Board was correct in rejecting the Madhyama Certificate of the applicant who had passed this test with Sanskrit, English, Hindi, History and Geography. More or less a similar issue had come before the Patna Bench of the Central Administrative Tribunal in O.A. No. 16 of 2003 and the Division Bench disposed of the O.A. on 10.5.2004. While disposing of the O.A. the Division Bench has observed "Bare perusal of the referred

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circular clearly envisages that degree of Madhyama granted by KSDSV, Darbhanga is equivalent to higher Secondary. Therefore, the said examination have been conducted by Bihar Sanskrit Shiksha Board after 1983. Therefore, it can safely be held that the applicant possesses requisite qualification of matriculation for said promotional examination."

This order of the Patna Bench of Central Administration Tribunal was up-held by the Patna High Court and the Hon'ble Patna High Court had noted that if a candidate has passed Uttar Madhyama with English as a subject, it can be considered as equivalent to Matriculation or Secondary School Examination.


5. Since the Bihar Sanskrit Board is a creation of Bihar Legislative Assembly, a degree issued by this Board cannot be refused recognition by the Railway Board or the Union of India.

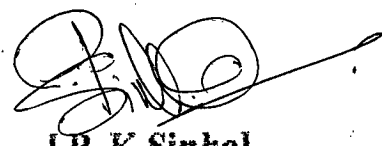
6. We, therefore, are of the opinion that the Railway Recruitment Board had made a serious mistake in disallowing the applicant from being taken as a successful candidate only on this point. Since the impugned order at Annexure-A/1 does not mention any other ground for disallowing the applicant, we can presume that the only reason for disallowing him was the non recognition of the Bihar Sanskrit Shiksha Board and its certificate by the Railway Board.

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7. We, therefore, direct the respondents to accept the applicant as a successful candidate. The impugned order at Annexure-A/1 [final result of the Railway Recruitment Board] so far as it relates to the applicant is quashed. The respondents are directed to send a communication on these lines to the applicant within two months of the receipt of this order. No

costs.


[Amit Kushari]
Member [Admn.]


[P. K. Sinha]
Vice-Chairman

mps.