

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 123 OF 2006[Patna, this 22nd, the Day of November, 2011]C O R A M

HON'BLE MR. JUSTICE SYED MD. MAHFOOZ ALAM, MEMBER[JUDL.]

HON'BLE MR. NARESH GUPTA, MEMBER[ADMN.]

Rajeev Kumar, S/o Sri G.D.Raut, resident of village -Nayagaon,
Baddipara, P.O.: Jamalpur, District -Munger [Bihar].APPLICANT.

By Advocate :- Shri R.K.Jha.

Vs.

1. Union of India represented through the General Manager, Fairlie Place, 17, Netaji Subhash Road, Kolkata-1 [W.B.].
 2. The Railway Recruitment Board, Mahendrughat, Patna-800 004, through its Chairman.
 3. The Railway Board, Ministry of Railways to Govt. of India, New Delhi-110 001, through its Chairman.RESPONDENTS.
- By Advocate :- Shri S.K.Griyaghey,
Addl. Standing Counsel.

O R D E R

Justice Syed Md. Mahfooz Alam, Member [Judl.] :- Applicant, Rajeev Kumar, has preferred this OA seeking following reliefs :-

[a] The letter bearing No. RRB/OA 355/03 and 512/03 dated 31.01.2006 of the Chairman, RRB, Patna, the Respondent no.2 containing the charge and allegations of certain forged signatures, impersonation etc. and consequently cancelling the candidature of the applicant and also debarring him from appearing in RRB Examinations and appointment in Railways forever, etc. substance of which is contained in Annexure-A/11 may be set-aside/quashed.

[aa] The guidelines given in clause [a] of the Railway Board's circular No. E[RRB]/2000/7/1 dated 09.03.2000 containing therein "in case there is any doubt that the signature of candidate on the answer script is different from his/her signature affixed on the application or the signature endorsed at the time of verification, such a candidate should not be empanelled, papers should be sent to Govt. Examiner of Questionable Documents in such cases of doubt and if it

is established that the signature is not genuine, the candidate should be debarred from all RRB examinations. [apart from his/her candidature being rejected for that particular recruitment]" substance of which is contained in Annexure-A/3 may be declared ultra vires, illegal illogical and incompatible.

[b] Any other order of direction as deemed fit and proper in the circumstances of the case may be further passed/issued for publication of further result including the applicant.

[c] Cost incidental to the proceeding be awarded."

2. The case of the applicant, in brief, is that the applicant belonging to scheduled caste category applied for the post of Supervisor [P.Way] under category no.7 against the Employment Notice No. RRB/PAT/1/2001-2002. Thereafter, the applicant received admit card for preliminary test which was to be held on 11.11.2001, and thereafter he received admit card for main exam which was to be held on 08.06.2002. The applicant appeared in the exam and declared successful. Thereafter, vide letter dated 04.07.2002 the applicant was asked to appear on 07.08.2002 for verification of original documents and his identity and, accordingly, he appeared before the concerned authority but his final result was kept in abeyance. Thereafter the applicant preferred OA 355 of 2003 asking grant of relief for final declaration of his result and on 22.04.2003 this Tribunal issued notice to the respondents in the said OA. Thereafter, respondent no.2 vide his letter dated 08.05.2003 intimated the applicant that on verification of the original certificates as well as identity it has been confirmed by the competent and authorised agency that the person who signed on the examination ~~on~~ attendance sheet, admit card, etc. at the examination center on the date of written examination was not the same person who signed on the signature slip,

declaration form and duplicate application form at RRB Office on the date of verification and so it was the case of malpractice and impersonation, Therefore, the applicant's candidature was rejected and he was debarred from appearing in RRB Examinations for life. After receipt of the said letter [Annexure-A/2] the applicant, ^{filed} ~~filed~~ OA 355 of 2003 which was disposed of on 19.09.2005 quashing the order of the respondents communicated through Annexure-A/2 and while disposing of the OA the Tribunal asked the respondents to offer reasonable opportunity to the applicant before any action by way of imposing penalty is taken. The order of the Tribunal has been annexed as Annexure-A/4. Thereafter, the respondents issued show cause notice to the applicant and, accordingly, the applicant made representation in reply to the show cause [Annexure-A/6]. He also asked for inspection of the record through letter dated 30.12.2005 [Annexure-A/7] whereafter the applicant appeared before the concerned authority along with his counsel but his counsel was not allowed to inspect the record and finally the RRB vide their letter dated 31.01.2006 again passed the said order rejecting the candidature of the applicant debarring him from appearing in all future examinations for railway service. The said letter through which penalty has been conveyed has been annexed as Annexure-A/11 and then the applicant preferred this OA.

3. On filing of the OA, notices were issued to the respondents and in compliance of the notice the respondents appeared through counsel and filed written statement. As per the written statement of the respondents their case, in brief, is that the applicant appeared in the examination for recruitment

to the post of Supervisor [P.Way], Category No.7, and the applicant qualified in the written examination in scheduled caste category. He was called on 07.08.2002 for verification of documents as well as identity as per the established procedure and the applicant appeared accordingly and on scrutiny his identity was found doubtful and it was found a suspected case of impersonation. The matter was referred to GEQD/Kolkata for expert opinion regarding genuineness of the signature and hand-writing whereupon the Government Examiner examined the relevant documents and reported that the person who signed on the attendance sheet, admit card, etc. at the examination center on the date of written examination is not the same person who signed on the signature sheet, declaration form and the duplicate application form at the RRB Office on the date of verification of documents as well as verification of identity on 07.08.2002, and so, as per the circular/policy of the Railway Board dated 14.02.2002 the candidature of the applicant was rejected and he was debarred for life for appointment in railway. It is further stated that as per the direction of the Tribunal the applicant was afforded opportunity to inspect the relevant documents and explain the circumstances appearing against him but he could not satisfy the concerned authority and as such, the impugned order was passed as per the policy of the Railway Board.

4. Heard Shri R.K.Jha, learned counsel appearing on behalf of the applicant as also Shri S.K.Griyaghey, learned Addl. Standing Counsel appearing on behalf of the respondents. The main contention of the applicant's counsel is that the Railway Board while issuing the order of rejecting the candidature of the applicant and debarring him from appearing in all future

examination for railway job has placed reliance upon the report of GEQD ~~but~~
but without giving any ^{first} other opportunity to cross examine the said Government Examiner by the applicant, the Railway Board has committed illegality in relying upon the said report. In this regard, the learned counsel for the applicant has placed reliance upon the decision of the Himachal Pradesh High Court in the case of H.L.Sethi Vs. the Municipal Corporation, Shimla & Ors; reported in 1998 [4] 1 AISLJ 242. In this regard, the learned counsel has placed reliance upon para 15 of the decision which reads as under :-

"15. The science of comparison of handwriting is intricate and complex. Judgment on the resemblance or difference of the writing has to be arrived at with respect to the general character of the writing, the forms of the letters and relative number of diversified forms of each letter, the use of capitals, abbreviations, stop and paragraphs, the mode of effective easures, or of inserting interlineation of corrections, the adopting of peculiar expressions, the orthography of words, the grammatical construction of the sentences and the style of composition, and also on the fact of one or more of the documents being written in a feigned hand. It is for these reasons that it has been held time and again that there is a need for care and caution in judging and utilising the testimony of handwriting experts. The worth of the opinion of the handwriting expert must be tested by the reasons given by him in support of his opinion. The opinion cannot be accepted at its face value on the basis of the bare conclusions of the expert. It is not the apparent qualifications of the handwriting expert which ought to determine the value of the evidence given by him but the soundness of the reasons advanced by him in support of his opinion. The Court or the authority before whom the handwriting expert's opinion is produced must satisfy itself as to the value of the evidence in the same way as it must satisfy itself of the value of any other evidence. The Court or authority cannot act like an automation accepting without scrutiny an expert's opinion as infallible. The opinion of a handwriting expert unsupported by any reasons cannot be considered as worthy of any reliance."

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5. We have perused the above mentioned decision. The said order was given in respect of disciplinary enquiry initiated against the petitioner

[H.L.Sethi] resulting in passing of order of dismissal. The said enquiry was conducted under CCS [CCA] Rules, 1965. Admittedly, holding a departmental enquiry is a quasi-judicial function and this cannot be compared with the administrative enquiry. The disciplinary enquiry was not possible to be initiated against the applicant as the applicant was never an employee of railway and, therefore, only administrative enquiry was to be done in his case on the allegation that he had been guilty of impersonation. The policy of the Railway Board permits that doubtful case of impersonation should be referred to GEQD and thereafter decision should be passed on that report. This policy is dated 09.03.2000 which has been attached with the written statement of the respondents. For better appreciation of the case we quote sub-para [a], [b] & [c] of this letter :-

“[a] RRBs must invariably ensure that candidates affix their signatures prominently on answer scripts, as well as questions booklets, given to them in the examination hall. At the time of verification of documents of a successful candidates he/she should be asked to sign and his/her signature should be compared with the signature on the answer script, and signature affixed in the application. In case there is any doubt that the signature of the candidate on the answer script is different from his/her signature affixed on the application or the signature endorsed at the time of verification, such a candidate should not be empanelled. Papers should be sent to Government examiner of questionable documents,” in such cases of doubt; and if it is established that the signature is not genuine, the candidate should be debarred from all RRB examinations [apart from his/her candidature being rejected for that particular recruitment].

[b] Call letters sent to candidates should normally have printed photographs – printed after scanning of photographs given with the application. The call letter should be in two parts, with one photograph printed on each part. One half of this call letter should be taken back from the candidates in the examination hall leaving the other half with him. This practice should be followed invariably unless there are no facilities for

scanning and printing photographs on the call letters in the town where RRB is located.

[c] Chairman may arrange two stage examinations even for those categories for which a single stage has been prescribed, if, in their opinion, the number of applicants is so large that strict control over invigilation at all examination centers becomes difficult. However, they should obtain prior approval from Executive Director, Estt. [RRB] for conducting two stage examination where single stage is prescribed. Employment notices should invariably have a suitable stipulation clarifying that the recruitment shall be done either by single stage examination or two stage examination at the discretion of RRB."

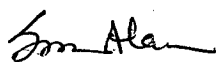
6. Thus, from perusal of the Railway Board's policy, we are satisfied that GEQD has been authorised to verify the identity of a candidate appearing at the examination conducted by Railway Board and in the instant case also GEQD was asked to enquire into the matter and submit its report and accordingly GEQD submitted its report holding the applicant guilty of impersonation. We are, therefore, of the view that the applicant's candidature was rightly rejected by the respondents and he was rightly debarred from appearing in all future examination for railway service. Moreover, we find from the averments of the applicant made in the OA and from the contents of his representation filed before the authority concerned that applicant had not uttered even a single word that the report of the expert is wrong and he is ready to face any other expert for further verification which goes to show that the report of expert is unchallenged.

7. It has been submitted by the learned counsel of the applicant that the guidelines given in clause [a] of Railway Board Circular No. E[RRB] 2000/7/1, dated 09.03.2000 [Annexure-A/3] may be declared ultra vires and illegal. In this regard we have to say that we have perused the guidelines

[Annexure-A/3] but we do not find anything discriminatory or anything which infringes the legal rights of an individual in the said guidelines, rather it is simply an instruction for checking up malpractices and impersonation at the exam conducted by Railway Board. Thus, we do not find any ground to quash the above said guidelines [Annexure-A/3] and so the relief no. [aa] as prayed by the applicant is also refused.

8. In the result, we do not find any merit in the OA and, accordingly, the same is hereby dismissed with no costs.


[Naresh Gupta]/M[A]


[Syed Md. Mahfooz Alam]/M[J]

skj.