

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.169/94

Date of order: 28.7.2000

Rachey Shyam Jatav, S/c Sh.Girraj P.C.Jatav, Vill. & Post Ghonsla,
Tehsil Hincon City, Distt.Sawai Madhopur.

...Applicant.

vs.

1. Railway Recruitment Board, Ajmer through its Chairman.

...Respondents.

Mr.F.F.Mathur-Proxy of Mr.R.N.Mathur - Counsel for applicant.

Mr.Arupam Agarwal)- Counsel for respondents.

Mr.Merish Bharwati)

CORAM:

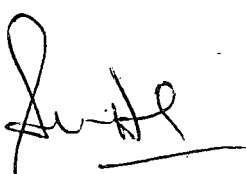
Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.F.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original application filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to issue appointment letter to the applicant to the post of Apprentice Electrical Signal Maintainer Gr.II w.e.f. 8.1.94 from the date on which appointment letters issued to other applicants.

2. In brief facts of the case as stated by the applicant are that he applied for the post of Apprentice Electrical Signal Maintainer Gr.II in pursuance to advertisement No.1/92 dated 1.11.92 published in Employment News dated 7/13.11.92. He appeared in the competitive examination with Roll No.709556 and he was declared successful in the examination by Railway Recruitment Board on 6.12.93. Thereafter he was called for interview on 5.1.94 and appeared in the interview and stood at Sl.No.10 in the merit list. The applicant neither received any communication nor his selection/rejection on the said post. He sent several representations and thereafter notice for demand of just dated 29.1.94 through registered post but with no result. It is stated that the applicant was wrongly deprived of appointment on the post of Apprentice Electrical Signal Maintainer Gr.II whereas other successful candidates were given



appointment, therefore, the applicant files the O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is stated that the applicant neither fill-up the form in his own handwriting nor he has signed himself on the application form. In such circumstances, it cannot be accepted that the applicant has applied for the post as he submitted the application form contrary to the instructions issued by the Railway Board for this purpose. It is admitted that the applicant appeared in the written test and interview and was declared successful and his name was at Sl.No.10 in the merit list. But it is stated that since the applicant has not filled up the form and not signed himself on the application form, he is not entitled to any relief sought for.

4. Rejoinder has also been filed. In the rejoinder, the applicant has categorically stated that the application for has been signed and filled in by the applicant himself.

5. This Tribunal vide order dated 16.10.97 directed that the Railway Recruitment Board shall make necessary reference to the Govt Examiner of Questioned Documents of Central Govt/Central Forensic Science Laboratory, New Delhi for verification and comparison of the genuineness of the writings of the applicant on the application and his signature thereon. Thereafter the respondents had ample opportunity to place the report of handwriting expert but the same was not placed before the Tribunal. It is also not known whether any action has taken by the Railway Recruitment Board in pursuance of the directions given by the Tribunal. In the reply it has not been made clear that as to on what basis the respondent reached to the conclusion that the applicant's application form was not filled up by the applicant and he has also not signed on the application form. Whether any preliminary enquiry was conducted for this purpose or any complaint was there on record against the filling up of the application form of the applicant. Nothing has been made clear before the Tribunal. It is not the case of the respondents that some other person in place of the applicant appeared in

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the written examination or interview. Therefore, on the basis of the averments made by the parties, it can be safely said that the respondent could not establish the fact before the Tribunal that the application form of the applicant was not filled up by the applicant himself and he has not signed on the application form.

7. Although in the notification Anrx.A1, it is mentioned that the application form shall be filled up by the applicant in his own hand writing but this has not been mentioned specifically as one of the ground for cancellation of the application. It is worth mentioning at this stage that the application form of the applicant was not cancelled at the time of scrutiny but the applicant was allowed to appear in the examination followed by interview. After interview the applicant secured a good merit as Sl.No.10. Thereafter the respondent took the objection to the effect that the application form submitted by the applicant was not filled in by himself and has not signed on the application form. It is not clear in the reply that when the department had come to know about nonfilling of the form by the applicant himself and has not signed on the application form. Moreover nothing has been placed before this Tribunal in pursuance of the directions of the Tribunal dated 16.10.97. Therefore, an adverse inference can also be drawn against the respondent and in favour of the applicant that if the contention of the respondent is sustainable the respondents should have placed on record the report of the finger print expert so as to reach a definite conclusion. But the respondent failed to place on record the report of the expert in spite of repeated opportunities. It is also not known whether any reference was made to the Finger Print Bureau. Therefore, on the basis of the evidence produced on record by the parties and facts and circumstances of this case, we are of the opinion that there was no basis to deny the applicant for appointing him on the post of Apprentice Electrical Signal Maintainer Gr.11.

8. We, therefore, allow the O.A and direct the respondent to issue letter of appointment to the applicant to the post of Apprentice

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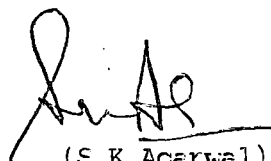
Electrical Signal Maintainer Gr.11 within one month from the date of receipt of a copy of this order. After appointment, the applicant will be entitled to seniority as maintained by the Railway Recruitment Board at the time of selection.

9. No order as to costs.



(N.F. Nawari)

Member (A).



(S.K. Agarwal)

Member (J).