

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Application No 281 of 2005

This the 27th day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Bibhuti Nath Jha
S/o Shri Dhruva Nath Jha,
Aged about 34 years,
Unemployed
Resideing at C/o U.N. Jha
Rly. Qr.No.455/A, Zone-1,
BMY-CHARODA-490025
Tehsil and District : Durg (CG)

Applicant

(By Advocate – Shri B.P.Rao)

VERSUS

1. Union of India,
Through : The General Manager,
South East Central Railway,
Bilaspur Zone, G.M. Office,
PO : Bilaspur
Tehsil & District : Bilaspur (CG).

2. The Divisional Railway Manager,
South East Central Railway,
Bilaspur Division, Bilaspur
Tehsil & District : Bilaspur(CG)

3. The Divisional Personnel Officer,
South East Central Railway,
Bilaspur Division, Bilaspur
Tehsil & District : Bilaspur(CG)

Respondents

(By Advocate – Shri M.N.Banerjee)



ORDER

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main relief :-

“8.2 That the Hon’ble Tribunal be pleased, either to decide the Applicant’s grievance or be please to pass a direction to the Respondent/s, for early disposal of Applicant’s pending Representations dated 12.11.2002 (Annexure-A-9).

2. The brief facts of the case as stated by the applicant are that the applicant is a graduate in arts. In the year 1993-94 due to unemployment, the applicant came to his uncle’s house at Shahdol in Madhya Pradesh who is a Railway employee and presently posted at BMY Charoda but at the relevant time he was posted at Shahdol. The applicant used to remain at Shahdol as his uncle’s one of the dependent member. Subsequently his name was added in his uncle’s family ration card (Annexure-A-4). Vide notification dated 8.5.1998 (Annexure-A-5) the respondents have notified 458 Group ‘D’ post. According to the applicant, his name was not registered in any Employment Exchange in the then Geographical area of Bilaspur Division of S.E. Railway, therefore, the question of sponsoring his name by way of any employment exchange does not arise. Unfortunately, due to heavy summer season, the applicant’s health was not sound enough to move out from the Shahdol to submit the application form in respondent’s office at Bilaspur, therefore, the applicant’s uncle has declared that the applicant is his nephew in the relevant column of the application form and submitted the application. Thereafter the applicant was issued a call letter and allowed for physical test followed by a written test too, which were held on 8.6.1998. After qualifying in the physical test, he was called for interview which was held on 5.9.1998 and he has also qualified the interview, hence his name appeared at Sr.No.16 in the selection panel. According to the applicant, successful candidates were sent for medical examination and also got appointment orders also, however

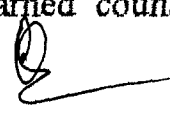


the applicant was neither sent for medical examination nor received any appointment orders. Thereafter, the applicant submitted a representation on 12.11.2002 before the respondents. Till now the respondents have not considered it. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. It is argued on behalf of the applicant that the applicant has submitted his application in compliance with the notification dated 8.5.98 issued by the respondents for recruitment for Group 'D' post. At that time the applicant was residing with his uncle, who is Railway employee and his name was added in uncle's family ration card (Annexure-A-4). The learned counsel for the applicant also argued that the applicant had qualified in the physical test and also the interview. However, the respondents did not send him for medical examination and also have not issued any appointment letter whereas some other persons who have qualified the aforesaid examination along with the applicant were appointed in Group 'D' post. Hence, the action of the respondents is highly discriminatory.

5. It is argued on behalf of the respondents that the applications would be accepted from the candidates who are living within the geographical jurisdiction of Bilaspur Division, whereas the education certificates submitted by the applicant is indicating that the applicant is all along living at Bihar State. The learned counsel for the respondents also argued that the "wards/dependents of the serving/retired Railway employees as per Pass rules may apply directly. Accordingly the applicant has submitted his application directly duly enclosing the declaration of parents to show that the applicant is dependent of a Railway employee as per the Pass rule, which was subsequently found false, hence the applicant's for appointment to the post of Gang man was not considered." Hence, the question does not arise to allow the applicant as a dependent member of a Railway employee. The learned counsel for the respondents



further argued that the applicant has submitted his application as per the provisions of Para 2(E) of the notification published on 8.5.98 (Annexure A-5). The declaration furnished by the applicant as per the provisions of Para 2(E) of the said notification was found incorrect, thus the name of the applicant was not considered for further recruitment to the post of Gangman at SE Railway/Bilaspur and the applicant has not adopted fair practice to submit his application, although he is not eligible to submit the same. The applicant's uncle namely U.N. Jha was punished for supplying false declaration that the applicant is the dependent family member as per the pass rule. The applicant has failed to fulfill any condition laid down in Para 2 (a) to (f) of the notification dated 8.5.98, hence the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant himself mentioned in para 4.2 of the OA that his name was added in the family ration card of his uncle and his uncle is a Railway employee. At the relevant point of time he was posted at Shahdol. The argument of the respondents is that applications would be accepted from the candidates who are living within the geographical jurisdiction of Bilaspur Division, whereas the educational certificates submitted by the applicant is indicating that the applicants is all along living at Bihar State and the applicant is not a dependent family member of his uncle as per pass rule. We have perused notification dated 8.5.1998 (Annexure-A-5) wherein it is mentioned in para 2.e "Wards/ dependents of the serving/retired Railway employees as per pass rules may apply directly." and in para 2.f "Outsiders (other than 2 (c,e) above should apply through Employment Exchange". Admittedly the applicant has not fulfilled these aforesaid conditions mentioned in paras 2.e and 2.f of the said notification.



7. Considering all the facts and circumstances of the case, we are of the considered view that this OA is liable to be dismissed. Accordingly, the same is dismissed. No costs.



(Madan Mohan)
Judicial Member



M.P. Singh)
Vice Chairman

पृष्ठंकन सं ओ/ज्या.....बलपुर, दि.....

पुनर्विचार सं. 11/17

(1) सचिव,बलपुर

(2) ओ.पी.ओ.के कमंडसल

(3) प्र.प.ओ.के कमंडसल

(4) बंजरगा,के

सूचना एवं संपर्कता का कार्य करेंगे

उप सचिव

B.P. Rao (Madan)

M. K. Banarjee

22/03/20

24/11/2017

24/11/2017