

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the ^{31st} day of March, 2011

ORIGINAL APPLICATION NO. 230/2010

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Muniraj Meena son of Shri Nathu Lal Meena, aged about 24 years,
resident of Village Khat Kalan, Post Padhana, Tehsil & District
Sawaimadhopur (Rajasthan).

.....Applicant

(By Advocate: Mr. Nand Kishore)

VERSUS

1. Union of India through General Manager, North Western Railway,
Hasanpura Road, Jaipur.
2. Railway Recruitment Board Ajmer through its President.
3. Railway Recruitment Board, Mumbai through its President.

.....Respondents

(By Advocate: Mr. V.S. Gurjar)

ORDER

PER HON'BLE MR. JUSTICE K.S. RATHORE

Brief facts of the case are that the applicant had applied for the post of Assistant Loco Pilot in response of Notification No. 2/2008 and he was permitted to appear in the examination, which was held on 09.11.2008, and had qualified the said examination and was called for further aptitude/psychological test which was fixed on 13.01.2009 and also qualified the aforesaid test. Thereafter, the applicant was called for verification of documents.

2. The applicant was deputed for training provisionally at Bhusawal subject to verification of antecedent and documents.



3. The Railway Recruitment Board, Ajmer had issued a show cause notice dated 08.02.2010 and a correction letter dated 15.02.2010 (Annexure A/1) and served to the applicant seeking his explanation as to why he may not be debarred for selection for life time in the Railway Services. The applicant submitted his reply to the said show cause notice vide Annexure A/5.

4. Earlier also, a notice dated 24.04.2007 was issued to the applicant asking him as to why he should not be debarred for a period of two years or life time for appearing in the Railway Recruitment Exam and also for appointment in the Railways because he had submitted two applications for the same post.

5. It is not disputed that after submission of the explanation by the applicant, the applicant was debarred for a period of two years vide order dated 20.04.2007. Now vide impugned order dated 08.02.2010 & 15.02.2010 (Annexure A/1), issued by Respondent no. 2, the applicant was issued a show cause notice as to why he may not be debarred for selection for life time in the Railway Services. The aforesaid impugned order dated 08.02.2010 & 15.02.2010 has been challenged in this OA on the ground that a show cause notice dated 24.04.2007 (Annexure A/6) was served upon the applicant to which the applicant had submitted his explanation dated 07.06.2007. Therefore the contention of the respondent no. 2 that the applicant's candidature was debarred from 19.02.2007 to 18.02.2009 appears to be not correct. It is also alleged that respondents while debarring the applicant for life time have not adopted the procedure as laid down under the law.



6. Learned counsel for the applicant had placed reliance on the judgment of the Central Administrative Tribunal, Principal Bench, New Delhi in the case of **Rajiv Tomar vs. Union of India & Others**, reported in 2009(2)(CAT) AISLJ 310, wherein the Hon'ble CAT while dealing with the similar issue in Para No. 8 has held as under:-

"We have only given few illustrations, where despite the involvement of a candidate in criminal case and his disclosure of the said fact in the relevant forms, there may be complete justification furnished by him and, therefore, cancellation of the notice or continuance in the job, as the case may be. No straitjacket formula can be laid as the explanation to a show cause notice shall have to be examined on the facts and circumstances of each case. To conclude, we may observe that the explanation furnished by a person, if he is issued a show cause notice, may be, in given facts and circumstances of the case, wholly acceptable. Surely, in such a situation, a citizen cannot be deprived of obtaining a public employment and his fate thus sealed to secure a Government job for his life. It is once again settled proposition of law that principles of natural justice of audi alteram partem are straightway attracted where the civil rights of a person are adversely affected. 'Civil consequences' cover infraction of not merely property or personal right but of civil liberties, material deprivations and non pecuniary damages. Everything that affects a citizen in his civil life inflict a civil consequences....."

After referring the aforesaid judgment, learned counsel for the applicant submits that the ratio laid down by the Central Administrative Tribunal is fully applicable to the facts & circumstances of the present case and the impugned order dated 08.02.2010 & 15.02.2010 (Annexure A/1) deserves to be quashed and set aside.

7. Per contra, learned counsel for the respondents has categorically drawn our attention to Annexure A/1 and strongly controverted the facts and submitted that the applicant had concealed the facts while applying for the post of Assistant Loco Pilot as in Column No. 11 & 13



of the Application Form, the applicant had concealed the fact that he was debarred for a period of two years. Even the applicant had concealed the fact regarding pendency of a criminal case against him. Learned counsel for the respondents further submits that the applicant had rightly been debarred for life time vide impugned order dated 08.02.2010 & 15.02.2010 (Annexure A/1).

8. We have heard the rival submission of the respective parties and carefully perused the judgment referred before us in the case of **Rajiv Tomar vs. Union of India & Others** wherein the CAT, PB, New Delhi in Para No. 5 had observed as under:-

"5.

2. All such cases are required to be decide by the Appointing Authority as under:
 - (i) In the event of declaration or document found false/bogus before appointment, the candidature should be cancelled by issuing proper Show Cause Notice to the candidate.
 - (ii) In case the declaration/document is found false/bogus after appointment but before declaring the individual confirmed, his services should be terminated under Rule 5(1) of the CCS (Temporary Services) Rules, 1965 by issuing a Show Cause Notice to the individual and the passing a suitable order after considering his response to the Show Cause Notice.
 - (iii) In case the declaration/document is found false/bogus after declaring the individual confirmed in his appointment, he should be dealt with departmentally as per Delhi Police (Punishment and Appeal) Rules, 1980 and then finally dismissed/removed from service.
3. In the event of any forgery/cheating or any documents found false/bognus at any stage, besides taking action as mentioned above, a criminal case should be also be got registered against the individual concerned as per law.
4. The cases of the above cited categories do not attract Article 311(2)(b) of the Constitution of India as already clarified in PHQ circular issued vide endst No. 29391-471/CR-1 dated 29.12.1993."

9. The Hon'ble CAT, PB, New Delhi had also observed that explanation furnished by a person, if he is issued a show cause notice, may be in given facts & circumstances of the case, wholly acceptable, in such situation, a citizen cannot be deprived of obtaining public employment and his fate thus sealed to secure a Government job for his life. It was also held that it is a settled proposition of law that principles of natural justice of audi alteram partem are straightway attracted where the civil rights of a person are adversely affected.

10. We have considered the judgment rendered by the CAT, PB, New Delhi and considering the facts & circumstances of the case we observed that the period for which the applicant was debarred for Railway Service for the period with effect from 19.02.2007 to 18.02.2009 is already over and for that applicant is not entitled to apply for employment in the Railways but for debarring him for life time, we deem it proper to remand the matter back to the respondents to consider the case of the applicant afresh in the light of the judgment rendered by the CAT, PB, New Delhi in the case of **Rajiv Tomar vs. Union of India & Others (supra)** after following the due process of law and the principles of natural justice.

11. With these observations, the OA is disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K.S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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