

Central Administrative Tribunal
Jaipur Bench, JAIPUR

ORDERS OF THE BENCH

21th March, 2011

OA 261/2010
MA 67/2011

Present: Shri Nand Kishore, counsel for applicant
Shri R.G.Gupta, counsel for respondents No. 1 & 2
Shri V.S. Gurjar, counsel for respondents No. 4

Let the matter be listed on 28.03.2011.

Anil Kumar

(Anil Kumar)
Member (Administrative)

K.S. Rathore

(Justice K.S. Rathore)
Member (Judicial)

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28.3.2011

Mr. Nand Kishore, Counsel for applicant
Mr. R.G. Gupta, Counsel for respondents 1 & 2
Mr. V.S. Gurjar, Counsel for respondent No. 4

Heard learned Counsel for the parties.

Order Reserved

Anil Kumar
(Anil Kumar)
M(A)

K.S. Rathore
(Justice K.S. Rathore)
M(J)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

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

ORIGINAL APPLICATION NO. 261/2010

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. Divisional Railway Manager, West Central Railway, Kota.
3. Railway Recruitment Board Ajmer through its President.
4. Railway Recruitment Board, Mumbai through its President.


.....Respondents

(By Advocates: Mr. R.G. Gupta, Respondents nos. 1 & 2.
Mr. V.S. Gurjar, Respondent no. 4.
None for respondent no. 3.

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 had qualified the examination as well as aptitude/psychological test. The applicant was called for verification of documents on 13.03.2009. Before verifying the same, the applicant was provisionally appointed and recommended for Kota Division, West Central Railway and he was also deputed for training at Bhusawal.



2. The controversy arise when the show cause notice dated 08.02.2010 (Annexure A/5) was issued to the applicant asking for his explanation as to why he should not be debarred for selection for life time in the Railway services.

3. The applicant submitted his explanation to the show cause notice vide letter dated 20.02.2010 (Annexure A/6). Having considered the explanation, submitted by the applicant, the respondents terminated the services of the applicant vide impugned orders dated 16.02.2010 and 17.02.2010 (Annexure A/2 and Annexure A/1 respectively). Aggrieved by the impugned orders, the applicant preferred this OA on the ground that no such letter debarring him for a period of two years with effect from 19.02.2007 to 18.02.2007 was communicated to him. Even if it so, respondent no. 3 should have rejected his candidature at the threshold but the candidature of the applicant was rejected vide letter dated 20.04.2007 (Annexure A/7) stating therein that the applicant submitted two applications for the same post. Earlier, a Notice dated 24.04.2007 was also served upon the applicant seeking his explanation as to why he should not be debarred for two years or life time for appearing in the Railway Recruitment Exam and also for appointment in Railways because he had submitted two applications for the same post. The applicant submitted his explanation vide letter dated 07.06.2007. In his explanation, the applicant submitted that in the first application form, there was no stamp fixed for eye medical certificate and second the application was filed by blue ink instead of black ink. It is also alleged that debarring letter, issued by the respondents, has not been communicated to the applicant. The



applicant asked the copy of the same but no response has been given by the respondents.

4. Learned counsel for the applicant further submitted that as the applicant had not received any response with regard to debarring him to appear in the examination held by the Railway Department, he has rightly filled in Column nos. 11 & 13. Thus, the respondents had not only violated the principles of natural justice but also had violated the provisions of Article 21 of the Constitution of India, debarring him to appear in the examination conducted by the Government Agency i.e. Railway Recruitment Board.

5. So far as FIR No. 169/2006 dated 06.08.2006 registered under Section 143, 447 of the IPC is concerned, it is not disputed that applicant filed a SB Criminal Misc. Petition No. 45/2009 against the said FIR and the Hon'ble High Court had stayed the further investigation.

6. Learned counsel for the respondents has strongly controverted the submission made by the learned counsel for the applicant and submitted that the applicant was not eligible to apply and appear in the examination conducted for the post of Assistant Loco Pilot because the applicant was debarred from appearing in the Railway Board's Examination for a period of two years with effect from 19.02.2007 to 18.02.2007, as revealed from letter dated 16.02.2010 annexed with impugned letter dated 17.02.2010 (Annexure A/1). Since the applicant appeared in the examination of Assistant Loco Pilot on the basis of suppression of material facts/factual information which otherwise



would have disintitiled him for appearing in the said test and subsequently on verification of the fact of misconduct of suppression of factual information committed by the applicant while furnishing information in the Attestation Form was detected and came to light, the applicant, who was on the course of training from 27.08.2009 to 22.02.2010, was terminated with immediate effect vide letter dated 17.02.2010 (Annexure A/1). Thus the applicant was not a genuinely qualifying candidate but his entry in the test/examination as well as in the training was based on the misconduct of suppression of material facts/factual information and deceiving the administration and the respondents.

7. It is also contended by the learned counsel for the respondents that in view of the short time information, the applicant was nominated without verification of character and antecedents subject to subsequent verification and it was made clear that if any adverse comments are received in the verification of character and antecedents then without notice, the training of the applicant will be terminated. As per character/antecedent verification report under letter dated 03.11.2009 (Annexure R/2) of District Magistrate, Sawaimadhapur, received under letter dated 02.09.2009 (Annexure R/3) from the office of Superintendent of Police, Sawaimadhapur, FIR No. 169/2009 was registered on 06.08.2009 at Police Station Malarna Dungar, District Sawaimadhapur under Section 143, 447, 323 of the IPC and Challan No. 142 dated 31.08.2006 filled in the court of learned Additional Judicial Magistrate No. 1, Sawaimadhapur, which is pending trial.



8. It is further submitted that the applicant has also submitted Annexure R/4 wherein at the time of filling in the Attestation Form under Column No. 12(8) against query "Is any case pending against you in any court of law at the time of filling up this Attestation Form" and in reply, the applicant written 'No'. In this manner by suppressing the factual information or the material facts, the applicant had misled and deceived the administration.

9. We have heard the rival submissions made on behalf of the respective parties and have carefully perused all the material placed on record. As the applicant sought relief for quashing and setting aside the letter dated 16.02.2010 issued by respondent no. 2 with letter dated 17.02.2010 issued by the Principal ZRTI, Bhusawal, we have to determine whether the aforesaid impugned letters are required to be interfered or not and we have to examine under what circumstances these letters are issued, rejecting the candidature of the applicant. On perusal of the documents placed on record, it appears that applicant had not furnished material information in column no. 11 of the Application Form. Thus the applicant in an illegal, unlawful manner and by fraud had participated in the selection process. On knowing the fact that the applicant had suppressed material information, which was to be furnished in paragraph nos. 3.09, 17.13, 19.15 and 21.2 of the Employment Notice No. 2/2008 issued by the Railway Recruitment Board, he was debarred for two years with effect from 19.02.2007 to 18.02.2009.

10. Besides the fact that applicant had not furnished the correct information in the Application form, a bare perusal of the



character/antecedent verification report vide letter dated 03.11.2009 (Annexure R/2) of District Magistrate, Sawaimadhopur received under letter dated 02.09.2009 (Annexure R/3) from the office of Superintendent of Police, Sawiamadhopur, it revealed that a Criminal case No. 169/2009 was registered against the applicant and consequently a charge sheet bearing no. 142 dated 31.08.2006 for offence under Section 143, 447 and 323 of the Indian Penal Code was submitted and the case was pending before the court of law.

11. At the time of provisionally allowing the applicant for training, it was made clear that this provisional permission is subject to verification of the documents and character antecedent of the applicant and it is quite clear, as discussed above, that the applicant had not only suppressed the material information but also furnished wrong information in the application form and the character/antecedent report submitted by the Superintendent of Police reveals that the applicant is not entitled to be given appointment on the post of Assistant Loco Pilot, the respondents have rightly issued the impugned letters dated 16.02.2010 and 17.02.2010 (Annexure A/1) by which the candidature of the applicant for the post of Assistant Loco Pilot has been rejected. Accordingly, the impugned letters dated 16.02.2010 and 17.02.2010 (Annexure A/1) requires no interference by this Tribunal. Consequently, the OA is devoid of merit and the same is dismissed 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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