

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO.772/2013

Date of Order: 26.11.2015

CORAM

**Hon'ble Mr. Justice Harun-Ul-Rashid, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member**

Sunil Kumar Swami S/o Shri Jagdish Prasad Swami, aged about 23 years, resident of Village Dadiya Rampura, Tehsil Srimadhopur, District Sikar.

.....Applicant

(By Advocate Mr. Banwari Sharma)

VERSUS

1. The Union of India, through the General Manager, North Western Railway, Jaipur.
2. The Assistant Personnel Officer, Railway Recruitment Cell, Durgapura, Jaipur.

.....Respondents

(By Advocate Mr. Anupam Agarwal)

ORDER

(Per Hon'ble Ms. Meenakshi Hooja, Member(J)

This OA has been filed by the applicant praying that the action of respondents in not considering the request of the applicant for correcting the human error committed by filling up medical examination and consequent refusal to give appointment to the applicant to be declared as illegal and consequently respondents be directed to consider the candidature of the applicant for medical

examination and in case of he is found fit, he may be offered appointment according to his merit.

2. When the matter came up for hearing today, the Ld. Counsel for applicant submitted that after applying for the post of Group-D as per the Railway Recruitment Cell (RRC), Durgapura advertisement No.02/2010, the applicant was issued permission letter for appearing in the written examination and on passing the written examination held on 6.5.2012, the applicant was further called for Physical Efficiency Test on 13.10.2012 and he cleared that Physical Efficiency Test also. Thereafter he was called for documents verification on 22.1.2013 and he was also issued a letter dated 22.1.2013 for medical examination. When the document verification was done, the applicant was verbally informed that he has mentioned the side wrongly about the body marks. In the form filled in this regard the body marks which are actually on the left side of the body have been mentioned to be on right side and on that ground he was not medically examined. He submitted application dated 06.02.2013 (Annexure A/4) and 26.02.2013 (Annexure A/5) requesting the authorities to permit him to correct this genuine human error. Thereafter the applicant filed the present OA and vide order of this Tribunal dated 25.11.2013 in the interest of justice respondents were directed to allow the applicant to appear before the Medical Board/authorities and the medical result shall be placed under the sealed cover. It was also made clear that it will not create any legal right or equity in favour of the applicant and one post of Group-D be kept vacant, if all the posts are not filled up.

 Counsel for the applicant submitted that the applicant has undergone the medical test and he has been found fit. Counsel for the applicant further submitted that while filling up the application form the only genuine human error was made by the applicant that he

mentioned about the body marks above and below the right eye, though actually these marks are above and below the left eye. The applicant had completed his SSC examination at the time of filling up the application form and thereafter has even completed the graduation. He pleaded that for a minor genuine human error he should not be debarred from the appointment, for which he has passed the written examination and the Physical Efficiency Test and prayed for allowing the OA.

4. Per contra, counsel for the respondents contended that a person has to be careful while filling up the application form and even though the applicant was SSC passed at the time of filling up the application form, he filled in wrong information about the identity marks and admittedly the body marks of the applicant did not match with the body marks filled in the application form. As the body marks of the applicant were not tallying the identity of the applicant could not be established. There is no procedure/rules for correction in the application form and his candidature was rightly rejected vide letter dated 27.05.2013 Annexure A/4).He contended that where incorrect particulars are filled in by the applicant himself, then the candidature of the applicant is liable to rejection and in support of his contentions, counsel for respondents relied upon the following judgments of the Hon'ble Apex Court:

1. (2011) 12 Supreme Court Cases 85 in Civil Appeals No.8343-44 of 2011 Bedanga Talukdar Vs. Saifuddullah Khan and others decided on 28.9.2011.
2. (2008)9 Supreme Court Cases 403 in Civil Appeal No.5766 of 2008 T.Jayakumar Vs. A. Gopu and another decided on 22.9.2008.
3. Civil Appeal No.9388 of 2014 (arising out of SLP© No.706 of 2014)UOI and ANR Vs. Sarvan Ram & ANR decided on 8.10.2014.

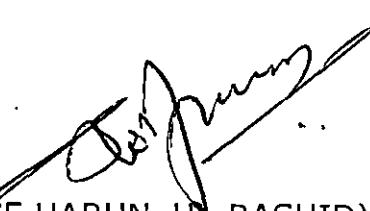
5. We have considered the contentions of the learned counsels and perused the record. Admittedly in the application form submitted by the applicant (which was also shown to us by the counsel for respondents during the hearing) body marks were mentioned by the applicant as being above and below the right eye. As per the counsel for applicant this was a genuine error and actually the body marks were on the left side. This appears to be very genuine and bonafide error and the medical examination report dated 13.05.2014 also shows (Annexure R/5) that body marks are above and below the left eye and the candidate is found fit for Aye two and below categories.

6. It is our considered view that simply on the basis of such a minor error in the application form, which appears to be genuine, the applicant should not be denied the opportunity of appointment and the body marks being on the right side and above and below the right eye rather than on the left side above and below the left of the eye should not be sole basis for disqualifying him for appointment. We have also seen the judgments of the Hon'ble Apex Court relied upon by the counsel for respondents as referred above. In those cases the facts and issues were slightly different. In Bedanga Talukdar Vs Saifuddullah Khan and others decided on 28.09.2011 (2011) 12 SSC Cases 85, the selection process was over, in T.Jayakumar Vs A.Gopu and another decided on 22.09.2008 (2008) 9 Supreme Court cases 403, the first application did not bear the signatures and the second application was received after the closing date and in ANR Vs Sarvan Ram & ANR decided on 08.10.2014 Civil Appeal No. 9388 of 2014 (arising out of SLP (C) No. 706 of 2014), the applicant did not paste his photograph in uniform, which was a basic requirement. In the present case the error is only of the body marks having been mentioned on the right side instead of the left side. In view of the above analysis it is

proposed to dispose of this OA with the direction to the respondents to consider the candidature of the applicant for the post applied for without treating the entry in the application form regarding the side of body marks as a disqualification. Further the respondents are directed to consider to decide the matter within 3 months from the date of receipt of copy of this order.

7. With these directions the OA is disposed of with no order as to costs.


(MS.MEENAKSHI HOOJA)
MEMBER(A)


(JUSTICE HARUN-UL-RASHID)
MEMBER(J)

Adm/