

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

O.A. No.060/00767/2014

Decided on: 03.09.2014

**Coram: Hon'ble Mr. Sanjeev Kaushik, Member (J)
Hon'ble Mr. Uday Kumar Varma, Member (A)**

Jaswant Singh S/o Sh. Joginder Singh aged 35 years, Tehsil Phillaur R/o Village Sanghe Khalsa, Post Office Sidhwan Station, District, Jalandhar.

Versus

.....Applicant

1. Union of India, through General Manager, Northern Railway, Baroda House, New Delhi.
2. Senior Divisional Personnel Officer, Northern Railway, Firozpur Division, Firozpur.
3. Divisional Railway Manager, Northern Railway, Firozpur Division, Firozpur.

.....Respondents

Present: Mr. D.R. Sharma, counsel for the applicants

Order (Oral)

By Hon'ble Mr. Sanjeev Kaushik, Member(J)


1. The present O.A. has been filed by the applicant seeking quashing of the order dated 28.07.2014 whereby his claim for appointment as Trackman under LARSGESS Scheme has been rejected on the ground of not having necessary qualification for the relevant appointment on the cut-off date.
2. In support of the claim, learned counsel for the applicant submits that on asking of the respondents, the applicant subsequently acquired the necessary qualification from Punjab School Board in

the year 2014 but now his claim for appointment under LARSGESS has been rejected for want of necessary qualification.

3. We have heard learned counsel for the applicant and gone through the pleadings on record.
4. Apparently, the applicant was not having the necessary qualification on the cut-off date fixed by the respondents i.e. in the year 2010. Acquiring the requisite qualification subsequently after the cut-off date does not give him a right to consideration for the relevant appointment and therefore, we find no reason to interfere with the well-reasoned order (Annexure A-1) passed by the respondents. Our view finds support from a judgment dated 07.09.2007 by the Hon'ble High Court of Delhi in the case of **Sunita Meena vs. GNCT of Delhi & Others** in Writ Petition No. 4453/2010 in which the issue of validity of application which did not have prescribed essential qualification as on the cut off date was examined in great detail with reference to the case law on the subject. The Hon'ble High Court examined the decisions of the Hon'ble Supreme Court in the case of **State of Rajasthan vs. Hitendra Kumar Bhatt** (AIR 1998 SC 91), **District Collector and Chairman Vizianagaram Social Welfare Residential School Society vs. M.Pripura Sunderi Devi** (1990 (3) SCC 655) and **Rekha Chaturvedi vs. University of Rajasthan & Ors** (1993 Supp.(3) SCC 168) and came to the conclusion that any applicant who did not have the essential educational qualification by the prescribed date would not be eligible for selection. From the service law discussed elaborately in this judgment, the conclusion is inescapable that any appointment made to a person who did not have the requisite qualification as on the cut -off date is void ab initio. The High Court has extracted para 10 of the judgment of the Hon'ble Supreme Court in the case of Rekha Chaturvedi (supra) which reads as under:

"10. The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are qualified for the posts in question or not, if they are yet to acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus, swelling the number of applications. But a still worse consequence may follow, in that, it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/ notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for the scrutiny for the qualifications will be the last date for making the applications. We have, therefore, no hesitation in holding that when the selection committee in the present case, as argued by Sh.Manoj Swarup took into consideration the requisite qualification as on the date of selection rather than on the last date of preferring application, it acted with patent illegality, and on this ground itself, the selections in question are liable to be quashed. Reference in this connection may also be made to two recent decisions of this court in A.P. Public Service Commission, Hyderabad Vs.B.Sarat Chandra and District Collector and Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram Vs. M.Tripura Sundari Devi."

In addition to the above, the decision of the respondents that the qualification of Matriculation obtained by the applicant from the Board of



Higher Secondary Education, Delhi, is not recognized by the Railways has not been challenged by the applicant.

5. In view of the above, the O.A. is held to be without merits and dismissed accordingly.

6. No costs.

(UDAY KUMAR VARMA)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

PLACE: Chandigarh
Dated: 03.09.2014.

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