

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00360/2014

Date of Decision : 20.11.2015
Reserved on: 06.11.2015

**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, JUDICIAL MEMBER
HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER**

1. Harpreet Kaur, wife of Jagdeep Singh, resident of near SPS School, Sirhind, District Fatehgarh Sahib, Punjab.
2. Manpreet Kaur, wife of Sukhdev Singh, resident of Quarter No.1203-C, R.C.F. Colony, Kapurthala, Punjab.

Applicants

Versus

1. Union of India, Ministry of Railways, through its Chairman, Railway Board, Rail Bhawan, New Delhi.
2. Rail Coach Factory, Kapurthala, (Punjab) through its General Manager.
3. Northern Railway, Bharat Scouts and Guides through its State Secretary, Northern Railway, Bharat Scouts & Guides, Baroda House, New Delhi.
4. Mrs. Renu Bala, wife of Sanjeev Kumar, Employment No.166247 working as Office Helper Khalasi (Group 'D' post), Rail Coach Factory, Kapurthala be served through General Manager, Rail Coach Factory, Kapurthala.
5. Gurmit Singh, District Secretary, Bharat Scouts and Guides, Chief Office Superintendent-Gazetted Staff, P Branch, Rail Coach Factory, Kapurthala.
6. Harbhajan Lal, Senior Personnel Officer (SPO-I), Rail Coach Factory, Kapurthala.

Respondents

Present: Mr. Inderjit Kaushal, counsel for the applicants
Mr. Lakhinder Bir Singh, counsel for respondents no.1, 2, 3, 5 & 6.
None for respondent no.4 in person.

ORDER
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (ii) Quashing of Assessment Sheet dated 28.03.2013 prepared by respondent no.3 in pursuance to the notification dated 24.05.2012 for appointment against Scouts and Guides (Group 'D') (ERSTWHILE) quota for the year 2012-13.

(iii) Quashing of order dated 29.03.2013 (Annexure A-6) vide which the respondent RCF prepared a panel for recruitment to the post of Helper Group 'D' post against Scouts and Guides quota for the year

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2012-13 by placing the name of respondent no.4 at Sl.no.2 of the selection list.

- (iv) Quashing of impugned order of appointment of respondent no.4 as Off. H.Khalasi, Group 'D').
- (v) Direction be issued to respondent no.3 to send the documents submitted by respondent no.4 Mrs. Renu Bala for verification from respondent no.2 as per the Railway Board Circular dated 18.03.1999 (Annexure A-8) and also of all candidates appointed for the last 5-6 years.
- (vi) Direction be given to respondent RCF to prepare a assessment sheet for calculation of marks on account of Scouts and Guide qualifications in consultation with / verification from respondent no.2.
- (vii) Direction be issued to respondent no.3 to appoint the applicants to the post of Helper Group 'D' post in terms of Employment Notice dated 24.05.2012 (Annexure A-2) being the most deserving and meritorious candidates."

2. Averment has been made in the OA that the applicants who belonged to the OBC category, are awardees of the President's Ranger, had participated in various International Events, National Events, National Jamboree and also attended Events and Rallies at the State level and also specialized in Scouts Vocational Craft Courses (Annexure A-1 Colly.). These were achieved by the applicants before they attained the age of 25 years.

3. It is further stated that respondent no.3 vide Employment no.1/SNG Quota/2012-13 dated 24.05.2012 invited applications from the eligible candidates for filling two posts of Group 'D' (Erstwhile) against pay scale of Rs.5200-20200+Rs.1800 as Grade Pay against Scouts and Guides quota for the year 2012-13. The selection procedure consists of 100 marks, out of which 50 marks are for written test of 50 objective type questions relating to Scouts and Guides Organization and its activities as per the syllabus outlined for Group 'D' posts, 15 marks are for interview and 35 marks are for Scouts and Guides qualification over and above the minimum prescribed eligibility condition, which are as under:-

- a) Participation in the International Event.
- b) Participation in the National Event / National Jamboree.
- c) Participation in the Jamboree on the Indian Railways.
- d) Events / Rallies attended at State level.



- e) Specialized Scouts / Guides course Pioneering / Mapping & Standard Judging Course / Vocational Craft Course.

Respondent no.3 conducted the written test and declared the result of written examination (Annexure A-3). Applicant no.1 was placed at merit position no.3 and applicant no.2 was placed at merit position no.7 in the written test. Mrs. Renu Bala, respondent no.4 was placed at merit position no.10 i.e. below the applicants.

4. The persons who passed in the written test, including the applicants, were called for interview. Before proceeding to the interview, a form was given to the persons to be interviewed to fill his / her Scouts and Guides qualification which comprises of 35 marks, as per the Railway Board letter dated 29.05.2000 with regard to the procedure for recruitment against Scouts and Guides quota (Annexure A-4). The qualification for Group 'D' post meant for Scouts and Guides is over and above the minimum prescribed eligibility condition and is assigned 35 marks. The break-up of 35 marks is as under:-

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| a) | Participation in International event
(One event-5 marks, two or more events-7 marks). | 7 marks |
| b) | Participation in National events / National Jamboree
(No marks for the first event. The same being the Minimum eligibility condition; First additional event -5 marks; ^{Two} The additional events or beyond -7 marks.) | 7 marks |
| c) | Participation in Jamboree of the Indian Railways
(One event-5 marks, two or more events-7 marks). | 7 marks |
| d) | Events/Rallies attended at State level. | 7 marks. |
| e) | Specialized Scout/Guides Course Pioneering / Mapping and Standard Judging course / Vocational Craft course (one course-5 marks, two or more courses-7 marks) (State level). | 7 marks. |

A copy of Railway Board letter dated 29.05.2000 relating to the procedure for recruitment against Scouts and Guides quota is annexed as Annexure A-4.

5. It is further added that since the applicants had earlier appeared for the Group 'D' posts meant for Scouts and Guides, they accordingly filled their forms and applicant no.1 had calculated 33 marks out of 35 marks whereas applicant no.2 had calculated 31 marks out of 35 marks as per Railway Board

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letter dated 29.05.2000 (Annexure A-4). One previous assessment sheet dated 27.03.2012 showing the marks obtained against Scouts and Guide quota for 2010-2011 of applicant no.2 is annexed as Annexure A-5. A copy of assessment sheet dated 28.03.2013 obtained by the applicant under RTI Act for the post of Group 'D' against Scouts and Guides quota for the year 2012-13 is annexed as Annexure A-6. The respondent RCF vide its order dated 29.03.2013 selected and placed one Rahul Solanki and respondent no.4 on the panel for Group 'D' post in the pay scale of Rs.5200-20200+Rs.1800 as Grade Pay against Scouts and Guides quota for the year 2012-13. Rahul Solanki, who was selected and placed at Sl.No.1 of the panel did not join the Group 'D' post as he was selected and joined near his home town in Zonal Railway. The respondent RCF thereafter appointed respondent no.4 Renu Bala from the panel as Office Helper Khalasi (Group 'D') post.

6. In the grounds for relief it has, inter-alia, been stated as follows:-

- i) On previous occasions also the applicants were assessed 33 marks on account of the documents submitted for Scouts and Guides qualification but in the present selection applicant no.1 had been allotted 28 marks whereas applicant no.2 had been allotted 29 marks and respondent no.4 Mrs. Renu Bala allotted 33 marks out of 35 marks for Scouts and Guides qualification in order to bring her on the top position as she had secured less marks in written examination i.e. 43 marks whereas the applicant no.1 had secured 45 marks and applicant no.2 had secured 44 marks. On this ground alone the appointment given to respondent no.4 is liable to be quashed. In the previous assessment sheets prepared on the basis of the documents submitted by applicant no.1 and 2 for Scouts and Guides qualification, applicant no.1 was given 33 out of 35 marks and applicant no.2 was given 31 marks.
- ii) The official respondents intentionally and deliberately had not got verified documents submitted by respondent no.4 as per the Railway Board Circular dated 18.03.1999 (Annexure A-8) where it is mandatory that the certificates of all the appointed candidates must be sent for verification to respondent no.2. The official respondents had bye-passed / ignored the Railway Board Circular as the documents submitted by respondent no.4 are forged and false being procured at the behest of respondents no.5 and 6.
- iii) Respondent no.4 was not entitled to submit her application for the post of Group 'D' as per the Employment Notice dated 24.05.2012 (Annexure A-2) since only those candidates had to apply for the post being the children / wards of Railway employees. Respondent no.4

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applied for the post pretending to be a dependent upon her father even after her marriage in the year 2006-07. Respondent no.4 is residing at Pathankot with her husband and in-laws. Respondent no.4 concealed this material fact and had applied against the Employment Notice Annexure A-2 being the unmarried daughter and dependent of Galodhu Ram.

- iv) Malafide has been alleged against the selection committee and it has been stated that respondent no.4 has been favoured in her selection as Group 'D' on account of her father being in the service of the Railways and know to members of the Selection Committee.

Hence, this OA.

7. In the written statement filed on behalf of the official respondents, it has been stated that the applicants had participated in the written test held on 23.02.2013 for filling two posts of Group 'D' against Scouts & Guides quota for the year 2012 & 2013. The participation of the applicants in the written test was without any demur but they could not qualify the same, therefore, they are estopped from complaining that the selection process was not impartial and according to rules. It has been consistently held under such circumstances that the failed / unsuccessful candidates are estopped from challenging the selection procedure after participating in the same without any demur. The present OA is not maintainable in view of the judgments reported as Vijay Syal & Anr. Vs. State of Punjab & Ors. JT 2003 (5) SC 241. Rajesh Sharma & Anr. Vs. Haryana Public Service Commission, 1999 (1) RSJ 728, Madan Lal & Ors. Vs. State of Jammu & Kashmir, 1995 (2) SCT 880. As per available records and certificates of the applicants, it is observed that they had participated in various International and National events, National Jamboree and other Scouts & Guides activities. The following certificates, now attached with their applications filled at the time of applying the post of Group 'D':-

Sl.No.	Name of the applicant	Certificate not attached.
1.	Harpreet Kaur	<p>i) Issued for 25th State Rally at Jodhpur from 25.12.1991 to 29.12.1991 (Sl.No.103)</p> <p>ii) For 26th State Rally held at Bikaner from 08.12.1997 to 12.12.1997 (102).</p>

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		iii) Participated in VIth All India Railway Jamborette held at Eastern State Training Park, Madhupur, Bihar from 3 rd to 8 th January, 1995 (Sl.No.99).
2.	Manpreet Kaur	i) Basic Training course held at Salogra from 15.06.2000 to 24.06.2000 (Sl.No.94). ii) Pioneering Camp held at Ludhiana from 27.09.1997 to 01.10.1997 (Sl.No.82).

The applicants had appeared in the earlier selection also and were well conversant with the procedure of filling assessment forms and they had earlier also filled the assessment forms. The allegations levelled against the Selection Committee have been denied and reference has been made to Lela Dhar Vs. State of Rajasthan [1982] 1SCR 320 that the object of any process of selection for entry into public service is to secure the best and the most suitable person for the job, avoiding patronage and favouritism. Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public servant.

8. It is also stated that the written test was held on 23.02.2013 and 30 candidates were found suitable. All the 30 candidates were called for appearing in the interview held on 28.03.2013, as per policy made at local level, with the approval of GM / RCF. Two of the candidates viz. Sh. Rahul Solanki and Smt. Renu Bala were selected and placed on panel for filling two Group 'D' posts. Further, Sh. Rahul Solanki, merit no.1 of panel dated 29.03.2013 gave his unwillingness for joining and accordingly his name was struck off from the panel vide office letter dated 19.06.2013. The remaining candidate, Smt. Renu Bala, joined on 08.06.2013 after completion of requisite formalities. There is no provision for preparing a waiting list.

9. Written Statement has also been filed on behalf of respondent no.4 denying the averments made in the OA and stating that she was selected on the Group 'D' post as per her merit.

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10. In the rejoinder filed on behalf of the applicants, another allegation has been made that respondent no.4 i.e. Mrs. Renu Bala although married to a non-railway employee continued to take shelter of her father, namely Galodhu Ram, who was working in Railway Coach Factory, Kapurthala and retired on 30.03.2013 and being his dependent, and had continued to apply for yearly registration from the Northern Railway, Bharat Scouts and Guides and respondent no.6 i.e. Shri Harbhajan Lal, Senior Personnel Officer, RCF, Kapurthala extended the renewal of Mrs. Renu Bala from Northern Railway, Bharat Scouts and Guides. Respondent no.4 had not attended any activity physically and the documents were prepared by respondents no.5 and 6 on their own. The certificate issued by respondent no.6 on the so called activities of respondent no.4 is an act of fraud and therefore, the appointment of respondent no.4 may be quashed. Had respondent no.4 informed Northern Railway, Bharat Scouts and Guide regarding her being married in the year 2006, she had to transfer her registration from Northern Railway Bharat Scouts and Guides to the Punjab State Scouts and Guides Association.

11. Later along with MA No.060/00894/2015 that has been filed on behalf of the official respondents, learned counsel for the respondents placed on record Railway Board Circulars dated 23/27.12.2013 (Annexure R-3).

12. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicants narrated the background of the matter and stated that respondent no.4 was not eligible for selection as Group 'D' in the RCF as she had got married in 2006-07 and could no longer be considered dependent on her father who was an employee of the Railways. The selection was confined to dependents of Railway employees who were involved in the Scouts and Guides movement. Learned counsel also referred to the difference in marks awarded to the applicants regarding their Scouts and Guides qualifications

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in 2010-11, 2011-12 and 2012-13 on the same set of qualifications. He stated that there could have been no variation in this regard and the Selection Committee had acted in a biased manner while awarding the marks to the applicants. Learned counsel also alleged that respondent no.4 had not participated in any Scouts and Guides activities after her marriage and any document regarding such participation was false / forged. Hence, the selection of respondent no.4 against the Group 'D' post deserved to be quashed.

13. Learned counsel for the respondents referred to the content of the written statement filed on behalf of respondents no.1, 2, 3, 5 & 6 and stated that respondent no.4 was eligible for appointment as Group 'D' against vacancies of candidates who had participated in Scouts and Guides activities. It was not necessary that the applicants should have participated in such activities in RCF itself, but the letter No.974-E/RCF/KXH/BSG/Pt-XX, dated 29.11.2011 annexed with the OA itself showed that Ms. Renu Bala had participated in the Valedictory of Centenary Celebration of Girl Guiding of India at Anandpur Sahib. Her rank was Ranger at that time. Learned counsel further stated that there was no bar on married women participating in Scouts and Guides activities and in this regard he referred to letter no.E(W)2012/WE-6/15, dated 23/27.12.2013 (Annexure R-3) that reads as follows:-

"With reference to the letter above, a doubt has been raised as to whether the daughters of Railway employees, who have already got the Rashtrapati Award and are now married and no more dependent on the Railway employees can continue their registration with the Scouts / Guides in the name of their father.

In this regard, it is clarified that the Board's earlier letter dated 21.11.2012 was issued in order to protect the interest of the wards of Railway employees subsequent to their retirement. Further, in the instant matter, it is clarified that Scouting is a voluntary activity and as such, there should be no objection to allow the married son (s) or daughter (s) of a Railway servant to continue with Scouting / Guiding activities."

14. We have given our careful consideration to the matter. Allegations of a general nature have been made in the OA impugning the selection of

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respondent no.4 as Group 'D' against the quota for Scouts / Guides. The learned counsel for the applicants could not show that any of the documents on the basis of which respondent no.4 had been selected as Group 'D' were false / forged. Besides, although allegations of bias have been made against the Members of the Selection Committee, none has been arrayed as respondent in the OA. Although the learned counsel for the applicants has claimed that the applicants were not assigned marks as per their qualifications, he has not been able to rebut the point made in the written statement that some of the certificates annexed with the OA were not listed by the applicants while filling their assessment forms for 2012-13. On the other hand, learned counsel has not been able to point out any mistake in the marks assigned to respondent no.4 regarding her certificates. Respondent no.4 has been participating in Scouts / Guides activities even after her marriage as is evident from the material on record. The Circular dated 23/27.12.2013, which is of clarificatory nature answers the applicant's plea that respondent no.4 was not eligible for the Group 'D' post under the Scouts / Guides quota as she had married in 2006-07 and her father, Sh. Galodhu Ram, retired as RCF employee on 30.03.2013, one day after the selection panel dated 29.03.2013 was issued.

15. In view of the discussion above, we find no merit in this OA and the same is dismissed. No costs.


(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.


(JUSTICE L.N. MITTAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 20.11.2015.

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