

Reserved
(On 12.04.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 25th day of April 2018

Original Application No 330/00064 of 2016

Hon'ble Dr. Murtaza Ali, Member (J)
Hon'ble Mr. Gokul Chandra Pati, Member – A

Arvind Kumar Singh, S/o Shri Siddhi Nath Singh, R/o Village Paniyari, Post Balikaranganj, District Pratapgarh (UP) – 230402. Presently residing at House No. 911, Purab Tola, Post – Saraon, Allahabad

. . . Applicant

By Adv: Shri S.K. Pandey

V E R S U S

1. Union of India through its General Manager, North Central, Railway, Allahabad.
2. Railway Recruitment Control Board [Railway Recruitment Cell (R.R.C.) Valmiki Chauraha, Nabab Yusuf Road / Civil Lines, Allahabad.
3. Divisional Railway Manager, North Central Railway, Allahabad.
4. Council of Boards of School Education in India through its General Secretary, 6H Bigjo's Tower, A-8 Netaji Subhash Place, Ring Road, Delhi – 110034.

. . . Respondents

By Adv: Shri Anil Kumar and Shri L.P. Tiwari

O R D E R

By Hon'ble Mr. Gokul Chandra Pati, Member (A)

This O.A. is filed under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

- i. This Hon'ble Tribunal may graciously be pleaded to issue a writ order or direction in the nature of certiorari for quashing the order dated 28.11.2011 (Annexure A-1 to Compilation –II to the OA) passed by the respondents.*
- ii. This Hon'ble Tribunal may graciously be pleased to issue a writ order or direction in the nature of mandamus directing the respondents to declare the final result and offer of appointment to the applicant on Group 'D' post and allow the seniority and all other*

benefits to the applicant will effect from date of immediate juniors of the panel, was allowed, with all consequential benefits.

- iii. This Hon'ble Tribunal may further be pleased to pass such other order or direction as may be deemed fit and proper and expedient in view of the facts and circumstances of the present case as well as in the interest of justice.*
- iv. This Hon'ble Tribunal may further be pleased to award cost of the Original Application to the applicant."*

2. The brief facts as stated in the OA are that the applicant applied for the post of Group 'D' as per notification dated 19.12.2010 issued by Respondent No. 2 for recruitment of Group 'D' posts under Railways, since he was eligible having cleared 'Poorva Madhayama' which is equivalent to High School, from Uttar Pradesh Madhyamik Sanskrit Shiksha Parishad (in short UPMSSP) in 2004. The applicant appeared in the said examination conducted by the respondent No. 2 and was qualified. Verification of documents was done on 17.01.2013 and medical examination on 22.01.2013. Finally he was placed at rank 1084 in provisional selection panel. Thereafter, the applicant was called for some clarification regarding the authority issuing High School Certificate. The applicant submitted the relevant documents after verification with the original documents. When no decision was taken, he filed a representation dated 01.09.2014 (Annexure A-7) before the respondent No. 2 and in response, the impugned order dated 28.11.2014 (Annexure A-1) has been issued by respondent No. 2 informing that certain clarifications have been sought from the Council of Boards of School Education of India (in short COBSE). This order dated 28.11.2014 has been challenged in this OA. The applicant has also mentioned that another candidate Shri Tarkeshwar Pandey was allowed to join in CRPF even though he had passed Poorva Madhayama from UPMSSP.

3. The applicant filed a Suppl. Affidavit on 21.03.2017, attaching a copy of the judgment of Hon'ble Patna High Court in the case of ***Birendra Prasad Jha vs. Union of India and others – CWJC No. 7625 of 2010*** (Annexure No. -1 to the Suppl. Affidavit).

4. Upon notice, the respondents have filed Counter Reply stating that as per Railway Board's instruction dated 15.07.2014 (Annexure CA-1), it is provided that if a candidate had certificate / qualification from a School Board of Education which is a member of COBSE then such certificate will be acceptable for the purpose of employment from the date on which the said institution was accorded membership by COBSE, if they were not recognized earlier by any competent authority. It was stated in the counter that in response to the query regarding the case of the applicant, COBSE has informed the respondents vide letter dated 05.01.2015 (Annexure CR-2) that UPMSSP, Lucknow has been granted membership of COBSE w.e.f. 24.06.2011. Since the applicant had obtained certificate from UPMSSP was obtained in the year 2004 i.e. prior to granting of membership w.e.f. 24.06.2011 from COBSE, he was not considered eligible for the post. Accordingly, the respondent No. 2 has issued another letter dated 30.04.2015 (Annexure CR-3) informing the applicant that since UPMSSP was granted membership of COBSE w.e.f. 24.06.2011, the applicant's 'Poorva Madhayama' certificate of 2004 was not considered to be a valid certificate and hence, the applicant was not found to be eligible for appointment in Railways.

5. The applicant has not filed any Rejoinder to the Counter. We also notice that the order dated 30.04.2014 (Annexure CR-3) issued by the

respondents rejecting the case of the applicant has also not been challenged by the applicant in this OA, although the applicant had filed Suppl. Affidavit dated 21.03.2017.

6. The matter was heard by us. Learned counsel for the applicant submitted that the issue of recognition of the certificate issued by Bihar Sanskrit Shiksha Board, Patna prior to it was accorded membership of COBSE, has been settled by the judgment dated 16.09.2010 (Annexure 1) of Hon'ble Patna High Court in the case of Birendra Prasad Jha (supra).

Relevant portion of the judgment reads as under:-

“Learned counsel for the petitioner has placed reliance upon a judgment and order dated 15.10.2008 passed by a Division Bench of this Court in CWJC No.9832 of 2008 (Union of India through the Chairman Railway Board, New Delhi & anr. Vs. Sri Prakash). Paragraph 3 of that judgment contains an extract from another order of the Tribunal dated 10.5.2004 passed in OA No.16 of 2003 wherein the Tribunal held that since the Bihar Sanskrit Board is a creation of Bihar Legislative Assembly, a degree issued by this Board cannot be refused recognition by the Railway Board or the Union of India while it grants recognition to the matriculation certificate issued by the Bihar School Examination Board. The Tribunal in that case directed the Railway authorities to accept the applicant of that case as a successful candidate and interfered with the final result of the Railway Recruitment Board. The Division Bench fully approved the view taken by the Tribunal by explicitly recording that there was no justification to take a view different from that of the Tribunal.”

7. Learned counsel for the applicant also cited the judgment of Hon'ble Calcutta High Court in the case of **WPCT No. 283 of 2013 – Parmeshwar Prasad vs. Union of India and others** (copy enclosed to Suppl. Affidavit). Relevant portion of the said judgment reads as under:-

‘In view of the aforesaid decisions of the Hon'ble Patna High Court as well as the Central Administrative Tribunal, Patna Bench, we are unable to hold that Madhyama qualification of the Bihar Sanskrit Shiksha Board are not recognized by the Railway authorities as equivalent to Matriculation specially when we find from the records that the Railway authorities on the earlier occasions filed Special Leave Petitions before the Hon'ble Supreme Court of India challenging the earlier decisions of the Patna High Court and the Hon'ble Supreme Court dismissed the said Special Leave Petitions.’

8. Learned counsel for the applicant also submitted copy of the order of Allahabad Bench of this Tribunal in **OA No. 539 of 2016 – Bashistha Narayan Pandey vs. Union of India and others** where again a similar issue relating to Bihar Sanskrit Shiksha Board was settled with reference to the eligibility of for employment of the Railways. This order held as under:-

“11. So far as recognition of Madhyama certificate is concerned, there is no dispute between the parties. The only dispute is regarding validity of Bihar Sanskrit Shiksha Board, Patna who conducted the examination of Madhya whether the said Board was recognized or it is a valid board in 2002 when the applicant passed the examination.

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16. Considering both the judgments of Hon'ble Patna High Court as well as Hon'ble Calcutta High Court which are based on the judgment passed by the Division Bench and one S.L.P. filed by the Railway authorities before the Hon'ble Apex Court which was dismissed by the Hon'ble Apex Court, the legal position is clear that Madhyama degree issued by the Bihar Sanskrit Shiksha Board, Patna is equivalent to matriculation and it is not open for the Railway authorities to treat the said certificate invalid only on the ground that the COBSE has recognized the same only in the year 2012.

17. Since the judicial side has already taken a view that Bihar Sanskrit Board is a creation of Bihar Legislative Assembly, as such Railway Board or Union of India cannot refuse recognition of the said examination. So far as controversy regarding Madhyama degree issued by the Bihar Sanskrit Shiksha Board, Patna is concerned, the same is purely valid degree and equivalent to matriculation and as such the holder of such degree is fully entitled to get promotion under 25% quota in Limited Departmental Examination.”

9. Further, it is seen from the Railway Board Circular dated 15.07.2014 (RBE No. 75/2014) (Annexure CR-1 to the counter), upon which respondent No. 2 has relied, while taking decision in respect of the applicant as per order dated 30.04.2015 (Annexure CR-3 to the counter), stated as under:-

“.....Thus certificates/ qualification obtained from all such institutions borne on the aforesaid list will be acceptable for the purpose of employment on the railways, from the date on which the said institution has been accorded membership by COBSE, if they were not recognized earlier by any competent authority. This date of acceptability of certificate may be obtained by approaching

COBSE directly and a copy of clarification thus obtained may also be endorsed to this Ministry for information & record.”

The above decision of the Railway Board to recognize from the date from which the Board was accorded membership of COBSE was subject to condition that “if they were not recognized earlier by any competent authority”. In this case UPMSSP being a creation of UP Legislature is functioning since 2002 and has the authority of this law, as observed. In the case of ***Deepak Kumar Maurya Vs. State Of U.P. And 3 Ors. in the WRIT - A No. – 48540 of 2016*** decided by Hon’ble Allahabad High Court with following observations:-

“After constitution of Uttar Pradesh Madhyamik Sanskrit Shiksha Parishad, U.P. Lucknow, in the year 2002, "Purva Madhyama" and "Uttar Madhyama" Examination are now conducted by the Uttar Pradesh Madhyamik Sanskrit Shiksha Parishad and are treated as equivalent to High School and Intermediate examination conducted by Secondary Education. However, the fact remains that the Secondary Education Board or the Board of Sanskrit education at the secondary level has jurisdiction to conduct examination of an institute situated within the State of U.P.....”

As per above observations, UPMSSP is legally authorized to conduct the examination of ‘Poorva Madhyama’ which is equivalent to High School Examination in UP. Hence, although UPMSSP was accorded membership of COBSE for 24.06.2011 but prior to that date also if had legal sanction and authority to conduct ‘Poorva Madhyama’ Examination which is equivalent to High School Examination. This is also in accordance with RBE No. 75/2014, since UPMSSP had the authority for such examination even prior to 24.06.2011. Hence, there is no infirmity in the certificate of the applicant from UPMSSP in the year 2004, which would remain valid for employment in the Railways in the light of the Judgments / Orders as discussed above an also in the light of RBE No. 75/2014.

10. In view of the above discussions, we allow this OA. The impugned order dated 28.11.2014 is quashed and set aside and the matter is remitted back to respondent No. 2 to consider modification of the order dated 30.04.2015 in the light of this order and consider the applicant's case afresh and pass a revised order within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.

(Gokul Chandra Pati)
Member (A)

/pc/

(Dr. Murtaza Ali)
Member (J)