

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Dated : This the **07th** day of **August** 2018

Original Application No. 330/01146 of 2014

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

Hon'ble Mr. Rakesh Sagar Jain, Member (J)

Dilip Kumar, S/o Late Shashi Saran Gupta, R/o Village Kulharia, P.O. Khlharia, P.S. Koilwar, District Bhojpur (Bihar).

. . .Applicant

By Adv : Shri D.P. Singh

V E R S U S

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Chairman Railway Recruitment Cell, North Eastern Railway, C.C.M. Annex Building Railway Road No. 14, Gorakhpur.
3. Secretary, Railway Recruitment Cell, North Eastern Railway, Gorakhpur.
4. General Manager (Vigilance), Railway Recruitment Cell, North Eastern Railway, C.C.M. Annex Building Railway Road No. 14, Gorakhpur.
5. Deputy Chief Personnel Officer (Recruitment), North Eastern Railway, Gorakhpur.

. . .Respondents

By Adv: Shri A. Tripathi

O R D E R

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

Heard Shri D.P. Singh, learned counsel for the applicant and Shri A. Tripathi, learned counsel for the respondents.

2. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, with the following reliefs:-

- "a. Issue an order or direction in the nature of certiorari quashing the order dated 01.02.2013 passed by the Deputy Personnel Officer (Recruitment) (Annexure No. A-9 to the original application).*
- b. Issue an order or direction in the nature of mandamus directing the respondents to take decision on the representation of the applicant dated 07.03.2013 and 16.06.2014 and verify presence of applicant on basis of signature and thumb impression of applicant from video footage taken at that time.*

- c. ***Issue an order or direction in the nature of mandamus directing the respondents to declare the result of the applicant being Roll No. 10756952 appeared in the examination dated 16.10.2011 for Group-D post.***
- d. ***Issue any order or direction, and/or to pass such other and further order which this Hon'ble Court may deem fit and proper.***
- e. ***award the cost of the application in favour of the applicant."***

3. Learned counsel for the applicant submitted that vide the impugned order, the respondents have debarred the applicant for appearing in the Railway Recruitment Cell (in short RRC) examination for the life time after cancelling his candidature for selection to the post of Group – D in pursuance to the advertisement dated 06.12.2007 issued by the respondents. He submitted that the respondents have alleged that the signature of the applicant in application form / attendance sheet / answer sheets did not tally with each other for which the allegation of impersonation have been brought against the applicant. The applicant was issued a show cause notice dated 22.11.2012 (Annexure A-5), which states that as per the report of the Forensic Document Examiner, the signature of the in the application form and answer sheets did not tally, for which he was issued a show cause notice to explain within 30 days as to why his candidature will not be cancelled and also debarred for all RRC examination in future. He further submitted that in reply to the show cause notice, the applicant had submitted a reply dated 10.12.2012 (Annexure A-6) by speed post, receipt of which is also enclosed with the OA. Learned counsel further submitted that letter dated 01.04.2013 (Annexure A-11) is the receipt of the postal department about the delivery of the applicant's reply dated 10.12.2012 to the show cause notice. However, in the impugned order dated 01.02.2013 (Annexure A-1), by which the applicant's candidature has been cancelled and he has been debarred for all RRC examination for life, it is stated in para 2 of the said letter that no reply has been received from the applicant to the show cause notice dated 22.11.2012. It was, therefore, submitted that that the impugned order has been passed without considering the applicant's reply dated 10.12.2012 (Annexure A-6) which the applicant submitted in reply to the show cause notice and the said reply has been delivered to the respondents as per the proof attached to the OA.

4. Learned counsel for the respondents on the other hand, submitted that the examination for the advertisement in question was held in different

stages as explained in the counter reply and since there was a mismatch of signature of the applicant, the matter was referred to the Government Forensic Expert and as per report from the Forensic expert, the signature of the applicant on the application form as well as on the attendance sheet and answer sheets did not tally, which establishes that the applicant had indulged in malpractice. He further submitted that the reply stated to have been submitted by the applicant to the show cause notice has not been received by the respondents. He further stated that in similar cases, the cases of the candidates were not accepted by this Tribunal.

5. Learned counsel for the applicant submitted that there are other evidences with the respondents like videography of the written examination, which can be used to check whether the allegation against the applicant is correct or not. He argued that the allegation of misappropriation cannot be established by virtue of the report of forensic report only. He further submitted that the grievance of the applicant would be redressed at present if a direction is given to the respondents to consider his reply dated 10.12.2012 before passing a fresh order as per rules.

6. Learned counsel for the respondents has no objection, if such a direction is given in view of the fact that the reply of the applicant dated 10.12.2012 to the show cause notice was not considered by the competent authority while passing the impugned order dated 01.02.2013 (Annexure 7-A to the OA).

7. From the record, it is clear that the applicant submitted his reply dated 10.12.2012 in response to the show cause notice alleging about mismatch of the signature and allegation of fraud and criminal means for the government job. This is a serious allegation, which has been brought by the respondents against the applicant. The applicant had furnished adequate evidence from the postal authorities to prove that the reply dated 10.12.2012 was delivered to the respondents, but the same was not considered by the competent authority while passing impugned the order dated 01.02.2013. Hence, the applicant has not been afforded reasonable opportunity to place his case before the competent authority and hence, there is violation of principles of natural justice in this case. Further, it is seen that the impugned order dated 01.02.2013 has been signed by some officer signed "for Dy. CPO/Recruitment". Since the matter pertains to the

career of the applicant with serious allegations against him, the impugned order should have been signed by the authority competent to pass such order.

8. In view of the above, the impugned order dated 01.02.2013 is not sustainable under law and it deserves to be quashed. Hence, the impugned order dated 01.02.2013 (Annexure 7-A to the OA) is set aside and quashed and the matter is remitted to the respondent No. 5 / competent authority to consider the reply dated 10.12.2012 (Annexure A-6) furnished by the applicant in reply to the show cause notice as per rules and guidelines of the Government / Railway Board and pass a fresh order in the matter, to be communicated to the applicant within a period of 03 months from the date of receipt of a certified copy of this order. The applicant is at liberty to file a fresh representation advancing additional grounds alongwith a copy of this order and copy of his reply dated 10.12.2012 within a period of a week of this order to the respondent No. 5 / competent authority, who shall consider such fresh representation if submitted by the applicant within time specified above, alongwith his reply dated 10.12.2012 (Annexure A-6) as per rules, before passing the fresh order.

9. The OA is partly allowed in terms of above directions. No costs.

(Rakesh Sagar Jain)
Member (J)

(Gokul Chandra Pati)
Member (A)

/pc/