

Open Court

Central Administrative Tribunal, Allahabad Bench
Allahabad

Original Application No.330/01520/2016

This the 30th day of July, 2018

Hon'ble Mr. Justice Bharat Bhushan, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)

Rajesh Kumar Yadav s/o Raja Ram Yadav r/o 117/740 Q Block, Sharda Nagar, Kanpur City, District-Kanpur-208025.

Applicant

By Advocate: Sri K.S. Yadav

Versus

1. The North Central Railway, Railway Recruitment Cell, Nawab Yusuf Road, Balmiki Chauraha, Allahabad-211001 through its Chairman.
2. The Assistant Personal Officer, Railway Recruitment Cell, North Central Railway, Balmiki Chauraha, Allahabad.
3. The Deputy General Manager, North Central Railway 001, Saraswati Parisar, Head Quarter, Subedarganj, Allahabad-211015.
4. The Deputy Chief Personnel Officer, North Central Railway, Allahabad.

Respondents

By Advocate: Sri A.K. Pandey

ORDER

HON'BLE MR. JUSTICE BHARAT BHUSHAN, MEMBER (J)

The applicant has filed the present Original Application (in short O.A.) u/s 19 of the Administrative Tribunals Act, 1985 (hereinafter referred as "Act") for the following reliefs:-

- i) issue a order or direction in the nature of mandamus directing the respondents to take the medical eligibility test and made the document verification of the applicant

by declaring him successful candidate for Group -D post against the advertisement No. 1/2012 dated 11.8.2012.

ii) issue a order or direction in the nature of mandamus directing the respondents to issue the appointment letter for Group D post in favour of the applicant against the advertisement No.1/2012 dated 11.8.2012.

iii) issue any order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case to meet the end of justice.

iv) award the cost of the petition in favour of the applicant.

2. Delay condonation application moved by the applicant has already been allowed by this Tribunal vide order dated 30.8.2017.

3. The brief facts of the case are that in pursuance of the advertisement dated 11.8.2012, the applicant applied for the post of Group 'D'. He marked the category of OBC in the form. After declaration of result of examination, he was called for physical eligibility test (in short PET). He is stated to have passed the PET, however, he was not called for medical test and document verification.

4. Applicant sought information under RTI wherein respondents informed that the last cut off merit of General Category is 71.76, for OBC 69.73 and the applicant has obtained 71.15 marks. Applicant submitted that since the last cut-off merit of OBC category is 69.73 and applicant had

secured 71.15 marks, therefore he is fully entitled for appointment.

5. Short counter-reply is filed by the counsel for respondents wherein it is stated that candidature of the applicant was considered as unreserved category due to non-enclosure of required caste certificate issued in correct format and by competent authority. Therefore, marks obtained by the applicant in the written test and PET were compared with unreserved category candidates. The applicant secured 71.15% marks while minimum mark of unreserved category candidate were 71.76%. As such applicant was not found suitable for appointment.

6. It is further submitted that in compliance of the Tribunals order dated 30.8.2017, the counsel for respondents have produced application form along with enclosure of applicant and the same show that applicant had enclosed caste certificate issued under signature of Tehsildar, Sadar District Kanpur Nagar, State of U.P. while Indian Railway is governed by rules applicable to the Central Government.

7. It is argued that required caste certificate for reserve category as per notifications issued to this effect by the Central Govt. In this reference Annexure -I to IV of Notification No. 1/2012 indicates the format of caste certificate acceptable for recruitment. Since, the applicant had not annexed certificate as desired by advertisement, he is not entitled for appointment.

8. Short Rejoinder reply is also filed by the counsel for applicant in which he has reiterated the facts as stated in the O.A. and denied the contents of the short counter reply.

9. Heard learned counsel for applicant Sri K.S. Yadav and learned counsel for respondents Sri A.K. Pandey and perused the pleadings available on record.

10. The dispute in this case is simple. The applicant applied for the post of Group 'D', advertised by Railway Recruitment Cell, North Central Railway, Allahabad. Certain number of posts were reserved for Scheduled Caste (in short SC), Scheduled Tribe (in short ST) as well as for Other Backward Classes (in short OBC). The copy of the advertisement has been annexed by the applicant himself as Annexure A-1 to the O.A.

11. The aforesaid advertisement is very detailed wherein even the format or configuration of caste certificates have been given. The candidates seeking reservation in the category of OBC were required to submit certificate in the configuration mentioned at enclosure III. This enclosure III not only contains the format of certificate but specifies competent authority for issuance of said certificate. It also refers to the Extraordinary Gazette Notifications wherein such reservations have been provided.

12. The column No. 14 (ज) of this advertisement specifically provides that after dispatch of application, no certificate or photograph etc. would be accepted separately. The candidates were required to fulfill the form and annex the required certificates in single transaction.

13. The applicant did not submit caste certificate of OBC as required by the Department in given format. Not only that, the certificate was not issued by District Magistrate or Dy. Commissioner-the competent authorities mentioned in the advertisement. It is conceded by the applicant that only the caste certificate issued by Tehsildar, Kanpur had been annexed which obviously was not permissible. Even after this, the application of applicant was not rejected but he was treated as a general category candidate and allowed to appear in the examination. Unfortunately, he did not secure enough marks in the competitive examination to clear it as a general candidate. Subsequently, he came to know that he had acquired enough marks to succeed as a OBC candidate. Unfortunately, he did not fulfill the conditions required for seeking benefit as OBC candidate.

14. It is well settled that if any act is required to be done in a particular manner then it is incumbent upon the person concerned to perform that task in that required manner. Merely because the applicant belongs to OBC category does not mean that he would be treated as OBC candidate. He was required to submit his caste certificate of a competent authority in a particular format along with application form which he did not do. Therefore, we believe that his candidate was rightly treated as general category candidate.

15. Learned counsel for applicant has argued that subsequently required certificate was sent to the recruiting

