

(RESERVED ON 12.09.2018)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the **14th** day of **NOVEMBER, 2018**.

ORIGINAL APPLICATION NO. 330/190/2016

HON'BLE MR RAKESH SAGAR JAIN, MEMBER (J).
HON'BLE MR MOHD. JAMSHED, MEMBER (A).

1. Rajat Sahu S/o Sri Rakesh Sahu, R/o 1849, Shiv Colony Bahar Bada Gaon Gate District – Jhansi.

.....Applicant.

VERSUS

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Railway Recruitment Cell, North Central Railway through Assistant Personnel Officer (Recruitment), Allahabad.
3. Railway Recruitment Cell through its Chairman, Allahabad.

.....Respondents

Advocate for the Applicant : Shri O.S. Goswami

Advocate for the Respondents : Shri P N Rai

ORDER
(Delivered by Hon'ble Mr. Mohd. Jamshed, Member-A)

In the Original Application under reference, the applicant has challenged the final result dated 15.12.2015 (Annexure No. A-VI to the OA) of employment notice no. 01/2013 (Annexure No. A-I to the OA) for Group 'D' examination conducted by respondent no. 2 by means of which the result of the applicant has been rejected on the ground of hand writing/thumb mismatch.

2. The brief facts of the case as per the O.A. are that the applicant applied against the advertisement vide employment notice no. RRC/NCR/01/2013 dated 27.07.2013 (Annexure No. I to the OA) issued by respondent no. 2 for recruitment to Group 'D' posts. The applicant was issued admit card for written examination held on 09.11.2014 in which the applicant appeared. The applicant was declared successful in the written examination, result of which was declared on 12.03.2015 and

thereafter, the applicant was called for Physical Efficiency Test (PET). He was also declared successful in the PET and his name was included in the provisional merit list prepared by respondent no. 2. Thereafter, the applicant was called for Medical Examination and Verification of Document on 07.10.2015 vide letter dated 21.08.2015. The applicant appeared before the competent authority for Certificate Verification/Medical Examination on 07.10.2005. The respondent no. 2 declared the final result on 15.12.2015 in which the status of the applicant has been shown as rejected with remark "Hand Writing/Thumb Mismatch". Apart from rejection, the respondent no. 2 also debarred the applicant from all Railway Examinations. In the notice, it has also been stated that criminal case may also be registered against the applicant.

3. The applicant has sought the following reliefs through this OA.

- (i) The Hon'ble Tribunal may graciously be pleased to quash the result dated 15.12.2015 for Employment Notice No. 01/2013 dated 27.07.2013.
- (ii) The Hon'ble Tribunal may further be pleased to direct the Respondent no. 2 to declare the result of the applicant for Group 'D' post afresh after scrutiny/verification.
- (iii) Any order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case, may also kindly be issued in the interest of justice.
- (iv) Cost of the applicant may also be rewarded.

4. The respondent no. 2 in his counter affidavit has stated that applications were called by Railway Recruitment Cell/North Central Railway, Allahabad for 2691 Group 'D' posts of different categories in pay band Rs. 5200-20200 with grade pay Rs. 1800/- against employment notice No. 01/2013 with certain rules and regulations provided by Railway Boards/New Delhi in regard to the recruitment of Group 'D' staff which consist of written examination followed by a physical efficient test (PET) & the successful candidates in these examination are called for document verification and medical tests for relevant posts. During this process

original documents, identity of candidate's participation in each step of examination by comparing their photos, writings, thumbs and signatures etc and medical fitness for relevant posts is verified, as per existing rules.

5. It is also stated by respondents that the applicant under thumb and signature by own handwriting gave declaration in application's column no. 22 as " I hereby declare that all the statement made in this application are true, complete and correct to the best of my knowledge and belief. In the event of any information being found false or incorrect or myself being not eligible in terms of eligibility criteria during the selection/any part of the recruitment, my candidature/appointment is liable to be cancelled/terminated without any notice at any stage even after empanelment."

The respondents have also mentioned that the applicant was declared successful in written examination and PET subject to document verification and medical test for placement of his name in the select list of successful candidates for provisional panel for appointment on Group 'D' posts. However, during document verification and medical test, it was found that the thumb impression taken in document verification did not match with the thumb impression affixed in written examination and PET (physical efficiency test). Thereafter, the competent authority issued a show cause notice dated 22.01.2016 seeking applicant's clarification. The clarification, was found to be unsatisfactory and the competent authority decided to cancel the applicant's candidature as well as debar him from all RRC examinations of Railway for life time as per extant rules and same was duly informed to the applicant vide letter No. RRC/NCR/ALD/Recruitment/Panel/En No. 01/2013. It has also been mentioned by the respondents that Government Examiner of Questionable

Documents (GEQD) are expert of handwriting and found applicant's handwriting not being the same.

6. Learned counsel for the respondents has quoted quite a few judgements passed by the Hon'ble Supreme Court in the case of **Technical Education Vs. Surindra Kumar Dhawan, 2009 (11) SCC 726** in which it was held that:-

"the courts are neither equipped nor have the academic or technical back ground to substitute themselves in place of statutory technical bodies and taken decision on academic matter involving standard and quality of technical education in."

7. In the case of **Film Festivals Vs Gaurava Ashwini Jain, 2001 (4) SCC 757**, the Hon'ble Supreme Court held as under:-

"Courts also not and cannot act as appellate authorities examining the correctness, reasonability and appropriateness of policy nor are courts advices to the executive on matters of policy which the executive is entitled for formulate."

8. Learned counsel quoted another judgement passed by the Hon'ble Supreme Court in the case of **S.S. Balu Vs State of Kerala (2009) 2 SCC 797**, wherein it was held that:-

"....A candidate does not have any legal right to be appointed. He in terms of Article 16 of the Constitution of India has only a right to be considered therefore. Consideration of the case of an individual candidate although ordinarily is required to be made in terms of the extant rules but strict adherence thereto would be necessary in a case where the rules operate only to the disadvantage of the candidates concerned and not otherwise."

9. He has referred to the case of **Sanchit Bansal Vs. Joint Admission Board 212 ESC (SC)**, in which the Hon'ble Supreme Court held as under:-

"1. Violative of any enactment, statutory rules and regulation.
2. Malafide or ulterior motives to assist enable private gain to someone or cause prejudice to anyone or where the procedure adopted is arbitrary and capricious. An action is said to be arbitrary and capricious where person in particular, a person on authority does any action based on individual discretion by ignoring prescribed rules, procedural law and the actions or decisions is found on prejudice of preference rather than reasons or facts."

26. But there is no ground for that court to interfere with the procedure, even if it was not accurate or efficient, in the absence of malafide or arbitrariness or violative of law."

10. Learned counsel also cited the case of **Secretary, All India Pre-Medical/Pre Dental Examination, CBSE and others Vs Khusboo Srivastava and others 2011 (4) ESC (SC) 637.**

11. Lastly, he has quoted the judgement passed by the Hon'ble Supreme Court in the case of **Jainendra Singh Vs. State of U.P. 2012 (8) SCC 748.**

12. Learned counsel for the applicant has filed rejoinder affidavit basically reiterating the facts stated in the OA.

13. In the supplementary affidavit dated 04.03.2016 filed by the applicant, it has been stated that this Tribunal vide order dated 09.02.2016 had suggested that "*in the meantime, if the applicant wishes he may prefer representation to the respondents*". The applicant has submitted a representation dated 18.02.2016 addressed to respondent no. 2.

14. In the supplementary counter reply filed by the respondents, the facts stated in the counter affidavit have been reiterated. However, no mention has been made about the disposal of the representation dated 18.02.2016 submitted by the applicant to respondent no. 2.

15. Heard the learned counsels for the parties and perused the records.

16. From the above mentioned, it is quite obvious that verification of document and medical examination are essential to the overall selection of the candidate to be declared successful. Thumb impression/signature at different stages of examination i.e., initial application, written examination and physical efficiency test are checked and verified along with documents by the competent authorities. Any mismatch in the thumb

impression/signatures does not rule out possibility of impersonation or other person having appeared in the examination in place of the applicant. A declaration is obtained from applicants in the beginning of the entire selection process at the time of applications about such eventualities.

17. In view of the above mentioned facts and circumstances, we do not find any claim of the applicant for selection against the advertised post and the action taken by the respondents is in line with the prescribed procedures and rules.

18. The OA is accordingly disposed of with the direction to the respondents to consider and decide the representation dated 18.02.2016 preferred by the applicant within two months from the date of receipt of certified copy of this order. No order as to cost.

(MOHD JAMSHED)
MEMBER-A

(RAKESH SAGAR JAIN)
MEMBER-J

Arun..