

1. Sh. R.K.Verma
Secretary
Ministry of Railways

Rail Bhawan
New Delhi-110001.

2. Padma Mohan, Secretary
Railway Recruitment Board Mumbai
Western Railway Divisional Office Compound
Mumbai Central
Mumbai 400 008.
3. Discharged vide Order dated 02.03.2017.
4. Dr. K.Uthamalinga, (Proforma Respondent)
Director
Vinayaka Missions University
Sankari Main Road
Ariyaanoor
Salem
Tamil Nadu – 636308. ... Respondents

(By Advocate: Shri R.N.Singh for R1 and 2 and Shri Kripa Shanker Prasad for R-3)

C.P.No.518/2016 in O.A.No.2578/2014:

1. Sh. Deepak Kumar
S/o Sh. Sunil Kumar
R/o Village Nayatola Masumganj
Post, Jamalpur
District Munger
Bihar – 811214.
2. Sh. Bal Mukund Patel,
S/o Sh. Anandi Prasad
R/o Village Gorapur
Post, Paingree
District Warisaliganj
Bihar – 805 130. ... Applicants

(By Advocate: Shri Sanjeev Kumar)

Versus

1. The Union of India
 Represented by its Secretary
 Sh. R.K.Verma
 Ministry of Railways
 Rail Bhawan
 New Delhi-110001.

2. Southern Railway Headquarters
 Personnel Branch
 Through Secretary
 V. Venkatasubramanian
 NGO Annexe, George Town
 Chennai, Tamil Nadu – 600 003.

3. Vinayaka Missions University
 Through its Director
 Sankari Main Road
 Ariyaanoor
 Salem
 Tamil Nadu – 636308.

... Contemnors/Respondents

(By Advocate: Shri R.N.Singh)

C.P.No.516/2016 in O.A.No.2577/2014:

1. Sh. Ravi Ranjan,
 S/o Sh. Ramjee Prasad
 R/o Village Makhdumpur
 Post, Paithana
 District Nalanda
 Bihar – 801303.

... Applicant

(By Advocate: Shri Sanjeev Kumar)

Versus

1. Sh. R.K.Verma
 Secretary
 Ministry of Railways
 Rail Bhawan
 New Delhi-110001.

2. Sh. J.S.Panwar, Member Secretary
Railway Recruitment Board Mumbai
Western Railway Divisional Office Compound
Mumbai Central
Mumbai 400 008.

3. Vinayaka Missions University
Through its Director
Sankari Main Road
Ariyaanoor
Salem

Tamil Nadu – 636308. ... Contemnors/Respondents

(By Advocate: Shri R.N.Singh)

ORDER

By V. Ajay Kumar, Member (J):

All the applicants applied, participated and qualified in the selection process for the post of Health and Malaria Inspector Grade-III, and also consequently appeared for verification of their documents. However, the Railway Recruitment Board while declaring the final results, initially kept the results of the applicants under withheld for further verification, finally vide letter dated 18.03.2014 informed that the Diploma in Health and Sanitary Inspector obtained under the Distance Education Mode, from the Vinayaka Missions University, Salem by the applicants, cannot be accepted in lieu of prescribed qualification for direct recruitment from open market for the post of Health and Malaria Inspector Grade-III and accordingly cancelled the candidature of the applicants.

2. This Tribunal, after considering the letter No.E(NG)-III2005/RR-I/S, dated 28.08.2014, whereunder the Railway Board decided that "empanelled candidates in possession of prescribed qualification from institutions run by Central Government/State Government/Bodies enacted by Act of Parliament or State Legislatures or recognized by Central Government/State Government bodies enacted by Act of Parliament or State Legislatures be allowed to join without further going into the issue of recognition, validity or otherwise of such recognition, if required, will be confirmed by the concerned recruiting agency, contacting directly to the Board/University or the Council as the case may be", and also considering an identical decision of the Hon'ble High Court of Madras in WP(C) No.19640/2014 dated 30.10.2014 in **Mastan Nagisetty v. Union of India & Others**, disposed of the OAs as under:

"10. In the circumstances, the OAs are disposed of by directing the respondents to consider the cases of the applicants in terms of the letter No.E (NG)-II/2005/RR-1/8 dated 28.08.2014, and, if applicable, to allow the applicants to join duty by issuing appropriate appointment orders, if they are otherwise eligible, as per their merit. This exercise shall be completed within two months from the date of receipt of a copy of this order. No order as to costs."

3. In pursuance of the aforesaid orders, the respondents though considered the cases of the applicants but rejected their candidature again by placing reliance on an earlier letter No.E(NG)-II/99/RR-1/91 dated 18.03.2014.

4. Alleging violation of the orders of this Tribunal, the applicants filed the present Contempt Petitions.

5. Heard Shri Sanjeev Kumar, the learned counsel for the petitioners and Shri R.N.Singh, the learned counsel for Respondents No.1 and 2, and perused the pleadings on record.

6. Shri R.N.Singh, learned counsel appearing for the respondents No.1 and 2, submits that though the letter dated 28.08.2014 provides for empanelment of the candidates possessing qualifications identical to that of the applicants but since the Diplomas of the applicants were specifically decided not to be accepted vide the letter dated 18.03.2014 and since the said letter was not retracted in the subsequent letter dated 28.08.2014, the action of the respondents is in accordance with law and accordingly it is to be treated that they have complied with the orders of this Tribunal in its true spirit.

7. We cannot accept the submission of the learned counsel for the respondents since the letter dated 28.08.2014 was issued keeping in view various earlier instructions, including the letter dated 18.03.2014, and as a comprehensive and conscious decision of the Railway Board to empanel the candidates like the applicants, however, reserving the right to verify the issue of recognition validity or otherwise of such recognition, if required from the concerned Board/University/Council by the recruiting agency. The said letter dated 28.08.2014, specifically stated that the guidelines issued under the said letter do not affect in any way the instructions circulated vide letter No.E(NG)II12010IRR-I/17, dated 08.12.2011. Had the Railway Board intends not to retract from the letter dated 18.03.2014, it would have

been specified like the letter dated 08.12.2011. In the OA, it was also not the case of the respondents that in view of letter dated 18.03.2014, the letter dated 2.08.2014 has no application to the applicants.

8. Therefore, we are of the view that the respondents have not complied with the orders of this Tribunal, in its true spirit. However, we grant four weeks time to the respondents to comply the orders of this Tribunal and to report compliance.

List the aforesaid CPs on 17.04.2017.

(P. K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

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