

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.2437 OF 2013

New Delhi, this the 20th day of January, 2016

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER**

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Pappu Ram Meena,
s/o Mota Ram Meena,
R/o Village-Achalpuri,
Post-Poonkher, Tehsil-Alwar,
District-Alwar, Rajasthan Applicant

(By Advocate: Mr.R.S.Malik)

Vs.

1. Union of India,
through Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi 110001
2. Regional Manager,
Northern Railway,
Estate Entry Road,
New Delhi 110001
3. Assistant Personnel Officer,
Railway Recruitment Cell,
Lajpat Nagar-I, New Delhi 110024 Respondents

(By Advocate: Mr.R.V.Sinha)

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ORDER**Raj Vir Sharma, Member(J):**

The applicant has filed the present O.A., seeking the following reliefs:

- i. To direct the respondent to consider the applicant for the Group-D post and assess the suitability of the applicant for appointment upon the merits of his case.
- ii. Direct the Respondent that the applicant is fully qualified and not ineligible and as such is entitled to be considered and appointed to the Group-D post in the Department of Railways. OR
- iii. Such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances may also be passed."

2. The brief facts of the applicant's case are that he belongs to Scheduled Tribe community. He is a Post Graduate, having M.A.Degree in Political Science. In December 2010, the Northern Railway, Railway Recruitment Cell, Lajpat Nagar-I, New Delhi 110024, vide Employment Notice No.220-E/Open Mkt/RRC/2010 (hereinafter referred to as the "Employment Notice"), invited applications from eligible persons for recruitment to 11439 Group 'D' posts in PB-1 of Rs.5200-20200/- with Grade Pay of Rs.1800/- in its Divisions, Workshops, and Units located at different places. Out of 11439 posts, 1281 posts were reserved for the Scheduled Tribe

candidates. The last date for receipt of applications was 15.3.2011. In response to the Employment Notice, the applicant submitted his application as an ST candidate. On the basis of the Admit Card issued by the Northern Railway, Railway Recruitment Cell, the applicant appeared in the written examination held on 24.6.2012. Having been declared successful in the written examination, he was called upon to appear for Physical Efficiency Test on 5.11.2012. He appeared and qualified in the Physical Efficiency Test. Thereafter, the Northern Railway, Railway Recruitment Cell, vide letter dated 16.11.2012 (Annexure A/6), called upon him to report to the DRM Office, Northern Railway, State Entry Road, New Delhi, on 13.12.2012, for verification of his original documents/certificates. Accordingly, on 13.12.2012, the applicant reported to the said office. The officials of respondent no.2 verified all his original documents/certificates. However, just before his medical examination, the officials of respondent no.2, while pointing out that there were printed words 'Eastern Railway' at one corner of his application, verbally informed him that he would be called for medical examination, after his application was scrutinized by the Screening Committee. As the applicant did not get any intimation from

the Northern Railway, Railway Recruitment Cell, regarding his medical examination, he made enquiry online through the website of the Northern Railway, Railway Recruitment Cell, to know the status of his application, when he got information that the Northern Railway, Railway Recruitment Cell, found him 'ineligible as per para 9 of employment notification no. 220-E/Open Mkt/RRC/2010 dated 17.12.2010'. Soon after getting the said information, the applicant made a representation dated 9.1.2013 (Annexure A/7) requesting the respondents to conduct his medical examination and to consider his selection and appointment on the basis of his performance in the written examination. In his representation dated 9.1.2013, the applicant clarified that the words 'Eastern Railway' appearing at one corner of his application form were pre-printed, but the application was duly addressed to and received by the Northern Railway, Railway Recruitment Cell. As there was no response to his representation, the applicant filed the present O.A. seeking the reliefs, as aforesaid.

3. In their counter reply, the respondents have stated, *inter alia*, that the applicant's application was not in the prescribed format. During the scrutiny of papers by a committee of three officers, the discrepancy was noticed that

the applicant submitted the application to the Railway Recruitment Cell, East Coast Railway Board, instead of Railway Recruitment Cell, Northern Railway. It was required under paragraphs 3 and 4 of the Employment Notice that the candidate should submit the application in the format as per Annexure 1 addressed to the Assistant Personnel Officer, RRC, Northern Railway. Thus, the respondents have stated that there was no infirmity in the cancellation of the applicant's candidature in terms of paragraph 9 of the Employment Notice.

4. We have perused the records, and have heard Mr.R.S.Malik, the learned counsel appearing for the applicant, and Mr.R.V.Sinha, the learned counsel appearing for the respondents.

5. Mr.R.S.Malik, the learned counsel appearing for the applicant, submitted that the application made by the applicant was in the prescribed format. The purpose of prescribing the format of the application is to ensure that a candidate furnishes the required particulars for consideration of his candidature for the post. The pre-printed words 'Eastern Railway' appearing at one corner of the duly filled in application form submitted by the applicant did not render his

application invalid. The receipt of the applicant's duly filled in application form, allotment of roll number, issue of admit card, publication of the result of the written test, and intimations sent to the applicant to appear for Physical Efficiency Test and for verification of original documents, etc., by the Northern Railway, Railway Recruitment Cell, not only belie the statement made by the respondents that the applicant submitted the application to the 'Railway Recruitment Cell, East Coast Railway Board', instead of 'Railway Recruitment Cell, Northern Railway', but also go to show that the application of the applicant was in the prescribed format and was duly addressed to and received by the Northern Railway, Railway Recruitment Cell. The reason for which the applicant's candidature was cancelled by the respondents is not supported by paragraph 9 of the Employment Notice. It was, therefore, submitted by Mr.R.S.Malik that the respondents acted arbitrarily and unreasonably in rejecting the applicant's candidature.

6. *Per contra*, Mr.R.V.Sinha, the learned counsel appearing for the respondents, submitted that the applicant's candidature was rightly rejected as his application being not in the prescribed format was invalid, and that as his application

was invalid, the applicant cannot claim for his medical examination and consideration of his candidature for selection on the basis of his performance in the written examination and qualifying in the Physical Efficiency Test. In support of his contentions, Mr.R.V.Sinha relied on the decisions of the Hon'ble Supreme Court in **T.Jayakumar v. A.Gopu & Anr.**, JT 2008(10) SC 530; and in **U.O.I. and Anr v. Sarwan Ram & anr.**, SLP (C) No. 706 of 2014, decided on 8.10.2014; and the decision of the Tribunal in **Gudipati Gayatri Kashyap, etc. v. The Secretary, Union Public Service Commission, etc.**, OA Nos.2767, 2786, 2793, 2841,2842 & 2891 of 2014, decided on 21.11.2014, which was upheld by the Hon'ble High Court of Delhi in **Satish Kumar, etc. v. Union Public Service Commission, etc.**, W.P. (C) No. 8319 of 2014 and connected writ petitions, decided on 28.11.2014, and in **Sonu v. Union of India and another**, O.A.No.1181 of 2012, decided on 1.5.2012.

6.1 In **T.Jayakumar v. A.Gopu & Anr** (supra), the concerned authority issued a notice for filling up the position on 22.12.1999. The last date for receipt of applications was 5.1.2000. Respondent no.1 submitted his application that was received within time on 4.1.2000. On this application,

however, he omitted to put his signature. Realizing his mistake, he sent another application duly filled in and signed by him on 4.1.2000 with the request that the second application might be treated as part of the first one. The second application sent by respondent no.1 was received by the authority after 5.1.2000, i.e., the last date for submission of applications. The concerned authority called three candidates for interview, including respondent no.1, but, in the end, it was the appellant who was selected and appointed as EDBPM, Village Kadambadi. Respondent no.1 challenged the selection and appointment of the appellant before the Tribunal. The Tribunal did not accept the plea taken by the respondent-authority that the application of respondent no.1 that was received within time was invalid as it did not bear his signature and his second application was received after the last date for submission of applications. It upheld the claim of respondent no.1 and allowed the O.A. The writ petition filed by the appellant was dismissed by the Hon'ble Madras High Court. On appeal, the Hon'ble Supreme Court set aside both the order and judgment passed by the Tribunal and the Hon'ble High Court.

6.2 In **U.O.I. and Anr v. Sarwan Ram & anr.** (supra), the appellants issued employment notice to fill up 800 posts of Group D (Ex-servicemen Quota). The employment notice mandated the candidates to paste photographs in military uniform. In response thereto, respondent no.1 applied for the post, but failed to comply with the mandate, i.e., condition to paste photograph in military uniform along with application form. The application being defective was rejected after he participated in the selection process when the defect was noticed. Respondent no.1 preferred O.A. before the Tribunal. The Tribunal dismissed the O.A. The Tribunal's decision was challenged by respondent no.1 before the Hon'ble High Court. The Hon'ble High Court allowed the writ petition. Against the Hon'ble High Court's judgment, the Union of India and another filed Special Leave Petition before the Hon'ble Supreme Court. Allowing the SLP/Appeal, the Hon'ble Supreme Court held that condition No.8.7(i) was one of the conditions mentioned in the employment notice. For non-compliance of such condition, it was always open to the competent authority to reject such application being incomplete. Respondent no.1 having failed to do so, the competent authority has rightly rejected the application. It was

not open to the Hon'ble High Court to direct the authority to consider the case of respondent no.1 for appointment, sitting in appeal over the scrutiny of application by referring to certain certificate of length of service. The Hon'ble High Court under Article 226 of the Constitution was not competent to scrutinize the applications filed for appointment, and could not substitute its own opinion based on some evidence to come to a conclusion whether the application form was defective.

6.3 In **Gudipati Gayatri Kashyap, etc. v. The Secretary, Union Public Service Commission, etc.** (supra), the applicants claimed to have submitted their applications for appearing in the Civil Services Examination, 2014. As per the detailed online instructions lucidly drawn on the online application portal with actual screenshots to guide the candidates at all stages of the online application, the applicants were required to submit online application in two parts, viz., Part I and Part II. The applicants were informed that since they did not fill Part II application, they were not candidates for the examination. Therefore, they filed O.As. before the Tribunal. From the pleadings and rival submissions

of the parties in the leading case, the following three questions arose for consideration of the Tribunal:

- (1) Whether the applicant had completed and successfully submitted Part II of the application;
- (2) Whether there was any glitch in the software of the online application system; and
- (3) Whether the applicant could be treated as a candidate for the Civil Services (Preliminary) Examination, 2014 so as to be entitled to appear in the examination.

After taking into consideration the relevant materials available on record, and the rival contentions, the Tribunal found that the applicant in the leading case had not completed and finally submitted Part II of the application. The applicant's plea of error/glitch in the software of the online application system being unfounded was not accepted by the Tribunal. Therefore, the applicant could not be treated as a candidate for the Civil Services (Preliminary) Examination, 2014. Accordingly, the O.As. were dismissed by the Tribunal.

6.3.1 The writ petitions filed by the applicants against the Tribunal's decision were dismissed by the Hon'ble High Court

in **Satish Kumar, etc. v. Union Public Service Commission, etc.** (supra).

6.4 In **Sonu v. Union of India and another** (supra), the applicant had made the application pursuant to the Employment Notice No.220-E/Open Mkt/RRC/2010 dated 27.2.2010 (which is the subject matter of the present O.A.). The applicant had not filled up identification marks column in the application form, as mandated in paragraph 9 of the Employment Notice. The applicant's plea before the Tribunal was that as he did not have any identification mark on his body, he did not fill up the relevant column of the application form. The Tribunal rejected the applicant's plea on the findings that if there was no identification mark on his body, the applicant should have mentioned so in the application form, and that since he had left in blank the relevant column, his application had to be rejected as it was found to be incomplete. Accordingly, the Tribunal declined to interfere in the matter and dismissed the O.A.

7. In the instant case, from the pleadings and rival contentions of the parties, the following issues arise for our consideration:

- (1) Whether the filled in application form was addressed by the applicant to the Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Lajpat Nagar-I, New Delhi 110024;
- (2) Whether the application made by the applicant was valid and was not liable to be rejected as per paragraph 9 of the Employment Notice; and
- (3) Whether the respondents were justified in cancelling the candidature of the applicant.

8. For deciding the issues, as formulated above, it would be apt to reproduce the relevant paragraphs of the Employment Notice as follows:

“NORTHERN RAILWAY
RAILWAY RECRUITMENT CELL
Lajpat Nagar – I, New Delhi 110024.

Employment Notice No: 220-E/Open Mkt./RRC/2010

Date of Issue: 17.12.2010	Closing Date & Time: 1700 hrs of 15.3.2011
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For residents of Assam, Meghalaya, Manipur, Arunachal Pradesh, Mizoram, Nagaland, Tripura, Sikkim, Jammu & Kashmir, Lahaul & Spiti districts and Panji sub-division of Chamba district of Himachal Pradesh and Andaman & Nicobar, Lakshadweep Islands Closing Date & Time is 1700 hrs of 03.03.2011.

OPEN MARKET RECRUITMENT

to posts in Pay Band–1 of Rs.5200-20200 Grade Pay of Rs.1800/-

Railway Recruitment Cell/Northern Railway invites applications from citizens of India and such other candidates declared eligible by the Ministry of Home Affairs, Government of India to fill up a total of 11439 posts in Pay Band-1 of Rs.5200-20200 Grade Pay of Rs.1800/- in following Division/ Workshops/Units.

i.	Divisions	Delhi, Moradabad, Lucknow, Ambala & Firozpur
ii	Workshops	Jagadhari, Amritsar, Charbagh & Alambagh Lucknow
iii	Units	Sahkurbasti, Alambagh, Jagadhari, Track Machine Organisation, Delhi, Northern Railway Central Hospital, Delhi, Chief Manager, Printing Press, Shakurbasti, Delhi, Construction Organization, Kashmiri Gate Delhi

IMPORTANT: Candidates to note that all the Zonal Railways are likely to issue Notification for recruitment to the posts individually. Written Examination for those who qualify in the Physical Efficiency Test will be HELD ON THE SAME DAY, SIMULTANEOUSLY BY ALL THE RAILWAYS. Similarly, Physical Efficiency Test (PET) will also be held by all the Railways SIMULTANEOUSLY. Candidates should keep this in mind before applying for any particular Notification.

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3. HOW TO APPLY:

Candidates should submit the applications in the format as per Annexure- 1 to this Notification.

The application should be on good quality A-4 size bond paper (80 GSM) using one side only. News paper cuttings should not be used as applications.

The candidates can also download the application format from the web site: www.nr.indianrailways.gov.in. Candidates using printed application form from any other source should ensure that it conforms to the prescribed format.

Candidates should fill up the application form in his/her own handwriting either in Hindi or in English with blue or black ball point pen only.

Candidates will be considered for the post applied only. Candidates shall mention their order of priority / choice in the column -1 of application form.

Photographs: one recent (not earlier than three months from the date of application) colour passport size photograph with clear front view of the candidate without cap and sun glasses should be pasted on the application form in the space provided. The candidate should sign in the space provided in the box below the photograph. One identical extra colour passport size photograph should be enclosed with the application indicating candidates name and date of birth on the reverse of the photograph. Candidates may note that RRC may reject at any stage for pasting old/unclear photograph on the application or for any significant variations between photograph pasted on the application and actual physical appearance of the candidate.

Candidates should tick (✓) mark their community in the appropriate box at column No.5 of the application. The candidates with Physical Disabilities shall tick (✓) mark in column No.6 of the application form.

The candidate should fill the column No.7 of the application form in English only indicating his address with PIN code, even though application is in Hindi. The candidates belonging to SC/ST communities should fill the nearest Railway Station for the purpose of issuing free Railway Pass in column No.12

Candidates belonging to SC/ST communities should produce a community certificate in the format given in Annexure – 6 of this Notification.

Candidates belonging to OBC community should produce a community certificate in the format given in Annexure - 7 of this notification. In addition the OBC candidates should enclose self-declaration of non-creamy layer status in the proforma given in Annexure - 8.

The candidates seeking age relaxation under any category as mentioned at para 1.2 above shall tick (✓) the appropriate box in the column No.14 of the application form.

Candidates who have already been debarred for life from appearing in all the examinations conducted by the Railway Recruitment Boards/Railway Recruitment Cells or those who

have been debarred for a specified period which is yet to be over are not eligible to apply.

Candidates should send their applications sufficiently in advance to reach this office on or before the closing date. Railway Recruitment Cell/Northern Railway will not be responsible for any postal delay or wrong delivery of applications.

The Candidates should copy the declaration at column No.19 of the application form in his/her own handwriting. Otherwise their applications will be rejected.

The candidates should put their left hand thumb impression at the designated box in the application form. The thumb impression must be clear and complete. Applications without left hand thumb impression will be summarily rejected.

In item No.13 of the application form the candidate should indicate any clear/visible marks of identification on their body like 'a mole on the nose' or 'cut mark on the forehead', etc. The application form of the candidate is liable to be rejected if he/she does not indicate identification marks.

4. TO WHOM TO APPLY:

The filled in application form along with the required documents should be addressed to the **Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Lajpat Nagar – I, New Delhi – 110 024**. On the envelope containing the application it should be clearly been (*sic*) written **“APPLICATION FOR RECRUITMENT TO THE POSTS IN PAY BAND-1 (Rs. 5200-20200) + GRADE PAY RS.1800/-”, EMPLOYMENT NOTICE NO. 220-E/Open Mkt./RRC/2010**. The application should be sent by post so as to reach this Office on or before the closing date and time mentioned above. The filled in applications can also be dropped in the boxes kept for the purpose in the premises of the Railway Recruitment Cell at the above mentioned address on or before the closing date and time.

5. ONLY ONE APPLICATION: Each candidate should send only one application. Candidates submitting multiple applications will not be considered.

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8. Enclosures to the Application:

Candidates should enclose self-attested photocopies of the relevant certificates as mentioned below. Original certificates should not be enclosed.

Demand Draft/Indian Postal Order towards examination fee, as applicable.

Certificates in proof of the Date of Birth. Only 10th class or school leaving certificate will be accepted.

Certificates in proof of educational/technical qualifications.

Community certificates for candidates belonging to SC/ST/OBC communities.

Physical Disability Certificate for candidates applying for PH quota. Income certificate for economically BC candidates availing fee concession.

Self-declaration for candidates belonging to minority communities availing fee concession.

9. INVALID APPLICATIONS:

Candidates are requested to read all instructions thoroughly before sending their applications. Otherwise their applications are likely to be rejected on one or more of the following reasons:

Applications received before/after the closing date & time of employment notification.

Postal orders/Demand Drafts not enclosed or less fee enclosed or invalid IPO/DD, i.e., IPO/DD purchased before the date of issue or closing date of employment notice.

Applications not in the prescribed format or which are incomplete/illegible in any manner.

Candidates not in possession of the required educational qualifications on the date of applying or are underaged/overaged as on 01.01.2011.

More than one application submitted by the same candidate. Applications without photo/latest photo not being affixed.

Applications without the declaration being re-produced by the candidates in the application. Applications without signature or with signatures in capital letters or with different signatures at different places.

Left hand thumb impression not affixed or is blurred/smudged.

Copies of required enclosures as mentioned in para 8 not enclosed.

More than one application submitted in single envelope. Applications, which are not addressed to the Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Northern Railway, Lajpat Nagar-I, New Delhi - 110024.

Applications which are filled in a language other than Hindi/English.

Any other irregularity noticed and considered invalid by the RRC.

Identification marks column not filled up in application form. Candidates name figuring in debarred list.

Category/post not filled up or incorrectly filled up.

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xxx”

Issue No.1:

9. Paragraph 3 of the Employment Notice stipulated that the candidate should submit the application in the format as per Annexure- 1 to the Employment Notice. The application should be on good quality A-4 size bond paper (80 GSM) using one side only. Newspaper cutting should not be used as application. The candidate could also download the application format from the web site: www.nr.indianrailways.gov.in. The candidate using printed application form from any other source should ensure that it conformed to the prescribed format. The candidate should fill up the application form in his/her own handwriting either in Hindi or in English with blue or black ball point pen only. The candidate would be considered for the post applied only. Candidate should mention the order of priority/choice in the

column -1 of application form. The recent colour passport size photograph with clear front view of the candidate without cap and sun glasses should be pasted on the application form in the space provided. The candidate should sign in the space provided in the box below the photograph. One identical extra colour passport size photograph should be enclosed with the application indicating candidate's name and date of birth on the reverse of the photograph. The candidate should tick (√) mark his community in the appropriate box at column No.5 of the application. The candidate should fill the column No.7 of the application form in English only indicating his address with PIN code, even though application was in Hindi. The candidate belonging to SC/ST community should fill the nearest Railway Station for the purpose of issuing free Railway Pass in column No.12. The candidate should send his/her application sufficiently in advance to reach this office on or before the closing date. Railway Recruitment Cell/Northern Railway will not be responsible for any postal delay or wrong delivery of applications. The candidate should copy the declaration at column No.19 of the application form in his/her own handwriting, otherwise his/her application would be rejected. The candidate should put his/her left hand thumb

impression at the designated box in the application form. The thumb impression must be clear and complete. Application without left hand thumb impression would be summarily rejected. In item No.13 of the application form the candidate should indicate any clear/visible marks of identification on his/her body like 'a mole on the nose' or 'cut mark on the forehead', etc. The application form of the candidate is liable to be rejected if he/she does not indicate identification marks.

9.1 Paragraph 4 of the Employment Notice stipulated that the filled in application form along with the required documents should be addressed to the **Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Lajpat Nagar – I, New Delhi – 110 024**. On the envelope containing the application it should be clearly written **“APPLICATION FOR RECRUITMENT TO THE POSTS IN PAY BAND-1 (Rs. 5200-20200) + GRADE PAY RS.1800/-”, EMPLOYMENT NOTICE NO. 220-E/Open Mkt./RRC/2010**. The application should be sent by post so as to reach this Office on or before the closing date and time mentioned above. The filled in application could also be dropped in the boxes kept for the purpose in the premises of the Railway Recruitment Cell at the

above mentioned address on or before the closing date and time.

9.2 As it transpires from the Employment Notice, during the relevant period, all the Zonal Railways were likely to issue notification for recruitment to similar posts individually, and the Physical Efficiency Test, and Written Examination for those who qualified in the Physical Efficiency Test were to be on the same day(s) simultaneously by all the Zonal Railways.

9.3 It is the case of the respondents that the applicant addressed his filled in application form to the 'Railway Recruitment Cell, East Coast Railway Board' and not to the 'Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Lajpat Nagar-1, New Delhi 110024.

9.4 If the applicant had not addressed his filled in application form to the 'Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Lajpat Nagar-1, New Delhi 110024, then how the Northern Railway, Railway Recruitment Cell, Lajpat Nagar-1, New Delhi 110024, could -

- (i) entertain the candidature of the applicant,
- (ii) allot Roll Number to the applicant,
- (iii) call the applicant to appear for the Physical Efficiency Test,

- (iv) conduct the applicant's Physical Efficiency Test and declare him to have qualified therein,
- (v) allow the applicant to appear in the written examination and declare him as successful therein, and
- (vi) call the applicant for verification of documents and medical examination.

The respondents, in their counter reply, have failed to explain the above positions.

9.5 The respondents have failed to produce before this Tribunal a copy of the application submitted by the applicant in support of their plea that the applicant had addressed his application to the 'Railway Recruitment Cell, East Coast Railway Board'. They have also not disclosed in their counter reply as to on what basis, they found the applicant to have addressed his application to the 'Railway Recruitment Cell, East Coast Railway Board'.

9.6 In the above view of the matter, we have no hesitation in holding that the duly filled in application form was addressed by the applicant to the 'Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Lajpat Nagar-I, New Delhi 110024' in terms of paragraph 4 of the

Employment Notice. Accordingly, issue no.1 is decided against the respondents and in favour of the applicant.

Issue No.2:

10. As already noted by us, the respondents have not produced before this Tribunal a copy of the duly filled in application form submitted by the applicant. The respondents have not even explained as to what was the deficiency in the applicant's application. Paragraph 9 of the Employment Notice stipulates that a candidate's application was invalid and liable to be rejected for one or more of the following reasons:

- (i) His /Her application was received before/after closing date and time of the Employment Notice;
- (ii) The Postal Order/Demand Draft was not enclosed or less fee was enclosed or invalid IPO/DD, i.e., IPO/DD was purchased before the date of issue or closing date of employment notice;
- (iii) His/Her application was not in the prescribed format or which was incomplete/illegible in any manner;
- (iv) He/She was not in possession of the required educational qualifications on the date of applying or are underaged/overaged as on 01.01.2011;

- (iv) More than one application was submitted by him/her;
- (v) His /Her application was without photo or latest photo not being affixed;
- (vi) His /Her application was without the declaration being re-produced by his/her in the application;
- (vii) His/Her application was without signature or with signature in capital letters or with different signature at different places.
- (viii) His/Her Left hand thumb impression was not affixed or was blurred/smudged;
- (ix) Copies of required enclosures as mentioned in para 8 were not enclosed;
- (x) More than one application submitted in single envelope;
- (xi) His/Her application was not addressed to the Assistant Personnel Officer (Recruitment), Railway Recruitment Cell, Northern Railway, Lajpat Nagar-I, New Delhi – 110024;
- (xii) His/Her application was filled in a language other than Hindi/English;
- (xiii) Any other irregularity noticed and considered invalid by the RRC;

- (xiv) Identification marks column was not filled up in application form;
- (xv) His/Her name figured in debarred list; and
- (xvi) Category/post was not filled up or incorrectly filled up by him/her.

In the instant case, save and except making a bald statement that the applicant's application being not in the prescribed format was invalid, the respondents have not produced before this Tribunal any material whatsoever to substantiate their statement.

10.1 In terms of paragraph 3 of the Employment Notice, the candidates using printed application form from any other source should ensure that it conformed to the prescribed format. It is the case of the applicant that he had used a pre-printed application form. It was pointed out to him by the officials of respondent no.2 on the date of verification of his documents that the words 'Eastern Railway' appeared at one corner of his application form. As noted earlier, the Employment Notice issued by the Northern Railway itself contained an instruction to the candidates that at the relevant point of time, all the Zonal Railways were likely to issue notifications for recruitment to similar posts individually, and

the Physical Efficiency Test, and Written Examination for those who qualified in the Physical Efficiency Test were to be held on the same day(s) simultaneously by all the Zonal Railways. The applicant might have used the printed application form from some other source, which was meant for Eastern Railway or East Coast Railway, because at the relevant point of time other Zonal Railways also invited applications from open market for recruitment to similar posts. At one corner of the application format, the name of the concerned Zonal Railway might have been printed, and that is how the words 'Eastern Railway' or 'East Coast Railway' were noticed by the officials of respondent no.2 during the verification of the documents of the applicant. But it is not the case of the respondents that the application form submitted by the applicant did not conform to the application format prescribed by the Northern Railway, Railway Recruitment Cell. Therefore, it has to be inferred that the application form submitted by the applicant conformed to the application format prescribed by the Northern Railway, Railway Recruitment Cell. When in terms of paragraph 3 of the Employment Notice, the applicant could use the printed application form from any other source, which conformed to

the application format prescribed by the Northern Railway, Railway Recruitment Cell, the respondents ought not to have treated the applicant's application as invalid and rejected the same.

10.2 Paragraph 9 of the Employment Notice, in terms of which the respondents purportedly rejected the applicant's application as invalid, did not stipulate that a candidate's application would be invalid and liable to be rejected, if he/she had used printed application from any other source, which conformed to the application format prescribed by the Northern Railway, Railway Recruitment Cell. Therefore, the applicant's application could not have been treated as invalid and rejected by the respondents.

10.3 The facts of **T.Jayakumar Vs. A.Gopu & anr** (supra), **U.O.I. and Anr. V. Sarwan Ram & anr** (supra), **Satish Kumar, etc. Vs. Union Public Service Commission, etc.** (supra), and **Sonu Vs. Union of India and other** (supra), as discussed in sub-paragraphs 6.1 to 6.4 of this order, were different from that of the present case, inasmuch as the applications made by the applicants in those cases were found to be invalid/incomplete in terms of the recruitment/examination notices. Therefore, the reliance placed by

Mr.R.V.Sinha, the learned counsel appearing for the respondents, on those cases, is of no avail.

10.4 In the above view of the matter, and in view of our finding on issue no.1 that the applicant's application was duly addressed to and received by the Northern Railway, Railway Recruitment Cell, we have no hesitation in holding that the application made by the applicant was valid and was not liable to be rejected as per paragraph 9 of the Employment Notice. Accordingly, issue no.2 is decided against the respondents and in favour of the applicant.

Issue No.3:

11. In view of our findings on issue nos. 1 and 2, we hold that the respondents were not justified in cancelling the candidature of the applicant. Accordingly, issue no.3 is decided against the respondents and in favour of the applicant.

12. All the issues having been decided by us in favour of the applicant, we direct the respondents to consider the candidature of the applicant for selection and appointment on the basis of his performance in the written examination and to take appropriate decision within a period of three months from today. We make it clear that on his appointment, the applicant

shall be entitled to service benefits from the date of his joining the service.

13. In the result, the O.A. is partly allowed to the extent indicated above. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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