

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.4526 OF 2015

New Delhi, this the 8th day of September, 2016

CORAM:

**HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMBER
AND**

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

.....

Jeetendar Singh,
s/o Sh.Rameshwar,
aged 25 years,
r/o village Moroli, Post: Jaspura,
District: Bharatpur, Rajasthan

í í í í

Applicant

(By Advocate: Mr.Sewa Ram)

Vs.

Union of India,
through Chairman, Railway Recruitment Cell,
Northern Railway, Lajpat Nagar-1,
New Delhi 110024

í í í .

Respondent

(By Advocate: Mr.R.V.Sinha & Mr.R.N.Singh)

í ..

ORDER

Per RAJ VIR SHARMA, MEMBER(J):

The applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

- õa) To order the respondent to place before this Honøble Tribunal the entire record leading to the issue of the impugned order, judicially examine the same and to

Quash & set aside the respondent's order dated nil (issued/uploaded on 1st December, 2015), control no.12325277 rejecting the applicant's candidature for the Group -Dø post under Employment Notification no.220E/Open Mkt/RRC/2013 (Annexure A-1).

- b) Order the respondent to issue letter of appointment in favour of the applicant on the Group D post under the Employment Notification no.220E/Open Mkt/RRC/2013 as per his rank in the merit list and in accordance with the rules.
- c) To pass such other order(s) as may be deemed fit in the interest of justice.ö

2. Opposing the O.A., the respondent has filed a counter reply. The applicant has also filed a rejoinder reply thereto.

3. We have perused the pleadings available on record, and have heard Mr.Sewa Ram, the learned counsel appearing for the applicant, and Mr.R.N.Singh, the learned counsel appearing for the respondents.

4. In pursuance of the Employment Notification No.220E/Open Mkt/RRC/2013 dated 30.12.2013, published in Employment News dated 11-17 January 2014, the recruitment process to fill up 5679 vacancies in Pay Band-I Rs.5200-20200 + GP Rs.1800/- Group -Dø posts was initiated by the respondent. Paragraphs 5 to 11 of the employment notification contained detailed instructions/information as to how to make application, mode of selection, general conditions, invalid application, misconduct, etc. In subparagraph 12.15 of paragraph 5 of the employment notification, it was stipulated that 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. Sub-paragraph 8.5 of paragraph 8 of the employment notification stipulated that mere selection and empanelment does not confer any right of appointment to the candidates. Sub-paragraph 8.6 of paragraph 8 of the employment notification stipulated that admission at all stages of recruitment will be purely provisional subject to satisfying the prescribed conditions. Sub-paragraph 11.3 of paragraph 11 of the employment notification stipulated that indulgence of candidate in any of the practices mentioned in sub-paragraphs 11.1 to 11.3 will result in the rejection of his/her candidature at any time.

4.1 In response to the aforesaid employment notification, the applicant applied and offered his candidature as an OBC candidate. He appeared in the written examination under Roll No. 50202928, Control No. 12325277. Having qualified in the written examination, he was called for Physical Efficiency Test (PET). After the applicant passed the PET, which was of qualifying nature, he was called for document verification and Medical Examination. Thereafter, it was decided by the respondent to get the expert advice from ex-Government Examiner for Questionable Documents duly nominated by the Ministry of Railway for the purpose with reference to matching of handwritings/signatures of the applicant appearing in the relevant papers, i.e., application form, OMR Sheet, document verification form, and Medical Memo purportedly submitted by him. The Document Expert opined that the inter se comparison of the signatures/writings appearing in the application form, OMR Sheet, Document Verification

Form, and Medical Memo revealed differences in handwriting characteristics indicating that they were not written by one and same person, and that the differences in handwriting characteristics are significant in nature and are beyond the range of natural variation. That is to say the signatures/writings appearing in those documents did not match with each other. On the basis of the said opinion/report of the Document Expert, the respondent rejected the applicant's candidature and uploaded the status of his candidature on the RRC website for information, vide Annexure A/1.

5. In the above backdrop, it was contended by Mr.Sewa Ram, the learned counsel appearing for the applicant that when the officers of the respondent had verified the applicant's signatures and thumb impressions at all stages of the recruitment process, viz., written examination, physical efficiency test, medical fitness test, and document verification, and had found the same matching with those of the applicant appearing in the application form and other documents, there was no reason whatsoever to get the signatures/writings appearing in the applicant's application form, OMR Sheet, Document Verification Form, and Medical Memo, examined by the Document Expert just before publication of the final merit/select list. It was also contended by Mr.Sewa Ram that the respondent also did not assign any reason as to why the thumb impressions appearing in those documents were not put to examination by the Document Expert when the science of identification of thumb impression is an exact science which does not admit any mistake or doubt, as has been observed by the Hon'ble

Supreme Court in **Jaspal Singh Vs. State of Punjab**, AIR 1979 SC 1708.

It was also contended by Mr.Sewa Ram that a retired Government Examiner of Questionable Documents was incompetent to declare the applicant's signatures/writings appearing in his application form as different from those appearing in his OMR Sheet, PET Form, Medical Form, and Document Verification Form. It was also contended by Mr.Sewa Ram that if at all there was any discrepancy in the signatures/writings, the respondent ought to have made a reference to the Government Laboratory, like C.F.L.at New Delhi, for rendering necessary opinion in the matter, instead of making a reference to a retired Government Examiner of Questionable Documents. It was also contended by Mr.Sewa Ram that rejection of the applicant's candidature by the respondent solely on the basis of the opinion of a retired Government Examiner of Questionable Documents and without affording him an opportunity of hearing is violative of the principles of natural justice. In this connection, Mr.Sewa Ram invited our attention to paragraph 8 of the order dated 21.7.2010 passed by the Tribunal in OA Nos.3415 of 2010 and 65 of 2011 (**Sanjay Kumar Vs. Govt. of NCT of Delhi and others**), which has been reproduced in paragraph 3 of the order dated 3.2.2012 passed by the Tribunal in OA No.2876 of 2011 (**Sunil Mann Vs. Govt. of NCT of Delhi and others**). In paragraph 8 of the order dated 21.7.2010 passed in **Sanjay Kumar Vs. Govt. of NCT of Delhi and others** (supra), the Tribunal has observed thus:

“Debarring a person from appearing in any examination to be conducted by DSSSB for next 5 years is

definitely a very harsh decision which could not have been passed without affording an opportunity to the applicant. Even otherwise, perusal of order shows respondents have not even mentioned specifically as to what was the mismatch in the case of applicant; whether it was with regard to his handwriting, signature or thumb impression. This order, in fact, seems to have been passed in a stereotype manner without even giving the basic details to each candidate. Therefore, it gets vitiated on this ground also. Even otherwise, in case respondents had any doubt with regard to the handwriting, signature or thumb impression of the candidates, they should have referred the matter to the Expert on the subject, namely, CFSL or some other institute to find out the truth after taking sample of handwriting, signature or thumb impression from the candidates. Not having done so, we are satisfied that order dated 27.9.2010 cannot be sustained in law. The same is accordingly quashed and set aside. However, liberty is given to the respondents to pass fresh orders in accordance with law after giving show cause notice to the applicant and after considering his reply and if need be, after referring the matter to the Expert on the subject í ö

6. Mr.R.N.Singh, the learned counsel appearing for the respondent produced before us the original departmental file No.102642 containing all the relevant papers including the application form, OMR Sheet, Document Verification Form, and Medical Memo of the applicant. Shri R.N.Singh also produced before us copy of the opinion dated 21.9.2015 furnished by Mr.V.G.S.Bhatnagar, ex-Director (GEQD), Directorate of Forensic Science, M.H.A.(GOI), Kolkata, and copy of the letter dated 15.6.2012 issued by the Deputy Director, Estt.(N)-II, Railway Board, regarding engagement of retired Government Examiners of Questioned Documents (GEQDs) for the purpose of examination of documents pertaining to the cases of suspected impersonation in Pay Band-I (Grade Pay Rs.1800) recruitment examination. Mr.R.N.Singh took us through the aforesaid departmental file, the opinion of

the Document Expert, and the list of retired GEQDs/Dy.GEQDs, which was appended to the Railway Board's letter dated 15.6.2012, and submitted that there was no infirmity in the decision taken by the respondent rejecting the candidature of the applicant because of mismatch of signatures/writings appearing in different documents pertaining to his candidature. It was also submitted by Mr.R.N.Singh that in **Krishan and others Vs. Secretary, Ministry of Railways and another**, OA No. 695 of 2015, decided on 6.5.2016, the Tribunal considered similar issues as raised in the present O.A. and decided the same against the applicants therein.

7. After having given our anxious consideration to the facts and circumstances of the case, and the rival contentions, we have found no substance in the contentions of the applicant.

8. As per the terms and conditions of the recruitment notification, admission of the candidate at all stages of recruitment was purely provisional, and that mere selection and empanelment do not confer any right of appointment to the candidate. Therefore, admission of the applicant at different stages of the recruitment process by the officers of the respondent after verifying his signatures and thumb impressions cannot be said to have debarred the respondent from getting the writings/signatures appearing in different documents pertaining to the candidature of the applicant examined by a Document Expert subsequently, in the event of any impersonation being suspected in his case. The applicant has not brought to our notice any rule or provision contained in the employment notification,

which prohibited the respondent from getting writings/signatures appearing in the documents pertaining to any candidate examined by the Document Expert after the written examination, PET, and document verification were over. When the Document Expert has already opined that the signatures/writings appearing in the application form, OMR Sheet, Document Verification Form, and Medical Memo, pertaining to the candidature of the applicant, do not match with each other, the non-examination of the thumb impressions appearing in those documents by the Document Expert does not vitiate either the aforesaid opinion of the Document Expert or the action taken by the respondent thereon. The decision in **Jaspal Singh's case** (supra) being distinguishable on facts is of no avail to the applicant's case.

9. Mr.V.G.S.Bhatnagar, Ex-Director (GEQD), Directorate of Forensic Science, M.H.A. (Government of India), Kolkata, in his opinion dated 21.9.2015, stated thus:

“The original documents relating to the recruitment of the person called **Jeetendar Singh** (File No.102642 Apl.no.12325227) have been examined by me with the help of available scientific instruments. After thorough and careful examination of the documents, I am of the following opinion:-

Interse comparison of the blue enclosed writings and signatures stamped and marked A-1 (on Application Form), A-2 (on OMR sheet), A-3/1 to A-3/3 (on DV paper) and A-4/1 to A-4/3 (on Medical Memo) reveals differences in handwriting characteristics indicating that they **were not written** by one and same person. The differences in handwriting characteristics are significant in nature and are beyond the range of natural variation.”

In view of the above opinion of the Document Expert, the decision of the respondent rejecting the candidature of the applicant can by no stretch of imagination be said to be arbitrary and unreasonable. When the Government of India, Ministry of Railways (Railway Board), vide letter dated 15.6.2012, have engaged Mr.V.G.S.Bhatnagar, Ex-Director (GEQD), Directorate of Forensic Science, M.H.A. (Government of India), Kolkata, and twelve others to examine documents pertaining to the cases of suspected impersonation in recruitment examinations conducted by different Zonal Railways, we do not find any substance in the contention of the applicant that a retired Government Examiner of Questionable Documents was incompetent to examine his handwritings/signatures and, therefore, the opinion submitted by such GEQD is unsustainable.

10. In **Krishan & others Vs. Secretary, Ministry of Railways and another**(supra), the coordinate Bench of the Tribunal has considered the plea of violation of principles of natural justice raised by the applicants therein. After referring to the decisions of the Honøble Supreme Court in **Chairman,, Board of Mining Examination and Chief Inspector of Mines and another Vs. Ramjee**, AIR 1977 SC 965; **Umrao Singh Chaudhary Vs. State of Madhya Pradesh & Another**, (1994) 4 SCC 328; and **Syndicate Bank and others Vs. Venkatesh Gururao Kurati**, JT (2006) 2 SC 73, the coordinate Bench of the Tribunal has held thus:

õ20. It is settled law that fraud certainly vitiates every single right and impersonation on behalf of the four applicants before us has been established by the respondents, through the opinion of the handwriting Expert. Such being the case, the

applicants cannot be allowed to plead before this Tribunal that they still had a right of *audi alteram partem*, and *nemo judex in parte sua*, when the facts as discerned by the duly appointed forensic Handwriting and Document Expert find that there was a mismatch in the handwriting, and signatures etc., in all the documents submitted on behalf of the applicants, at various stages of the recruitment process. Therefore, the applicants cannot now claim for being granted the right of being heard, as pleaded by them under the principles of *audi alteram partem* and *nemo judex in parte sua*.

21. We are in respectful agreement with the observations made by the Honøble Apex Court in the above three judgments cited by the respondents, before which the two Kolkata High Court judgments cited by the applicants cannot stand. We also hold that the principles of natural justice cannot be invoked in such cases if a fraud on the part of the applicants, or on their behalf, has been established, and they cannot be allowed to plead that still they ought to have been provided a right of fair hearing, under the Latin maxims cited by themí í í ö

In the light of the above, we find no substance in the applicantø's plea of violation of principles of natural justice.

11. We have also seen the signatures and writings appearing in the application form, OMR Sheet, Document Verification Form, and Medical Memo, which are available on departmental file pertaining to the applicant. Even without the advice/opinion of the expert also, the differences in the signatures and writings appearing in those documents are quite glaringly visible.

12. In the light of our above discussions, we do not find any merit in the O.A. The O.A, being devoid of merit, is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

AN

AN