

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 4143/2013
With
OA 126/2015
OA 132/2015
OA 281/2015
OA 475/2015
OA 1061/2015
OA 3628/2013

Orders reserved on: 16.12.2015
Order pronounced on: 22.12.2015

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

OA 4143/2013

Pradeep Kumar
S/o Shri Wazir Singh,
R/o village Giwana, Tesh. Gohana
Distt. Sonapat (Har) ... Applicant

(Through Shri Yogesh Sharma, Advocate)

Versus

1. Union of India
Through the General Manager,
Northern Railway, Baroda House,
New Delhi
2. The Assistant Personnel Officer
Railway Recruitment Cell
Lajpat Nagar-I, New Delhi-24 ... Respondents

(Through Shri R.N. Singh, Advocate)

OA 126/2015

1. Sanehad, S/o Sh. Chet Ram
R/o Vill & PO: Athwala, Distt: Jind,
Haryana.
Aged about 30 years
2. Sumit, S/o Sh. Dilawar Singh
R/o Vill. & PO Bohar,

Distt. Panamalwan, Rohtak,
Haryana.
Aged about 25 years

3. Sandeep Kumar S/o Sh. Vikram Singh,
R/o Kheri Sultan, Distt. Jhajjar,
Haryana.
Aged about 31 years

4. Satish Malik, S/o Sh. Dayanand
R/o Vill & PO: Mokhra Khas,
Pana Shyam, Teh- Meham,
Rohtak, Haryana.
Aged about 32 years

....Applicants

(Through Sh. U. Srivastava, Advocates)

Versus

Union of India through

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Railway Recruitment Cell
Through its Secretary,
Northern Railway, Lajpat Nagar-1
New Delhi.
3. The Assistant Personnel Officer (RRC)
Railway Recruitment Cell, Lajpat Nagar-1,
New Delhi.

... Respondents

(Through Shri R.N. Singh, Advocate)

OA No.132/2015

Parveen Kaushik, S/o Sh. Om Prakash
R/o Vill –Nayavas & PO: Khubru,
Teh- Gannour, Distt: Sonipat, Haryana.
Aged about 27 years

...Applicant

(Through Sh. U. Srivastava, Advocates)

Versus

Union of India through

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.

2. The Railway Recruitment Cell
Through its Secretary,
Northern Railway, Lajpat Nagar-1
New Delhi.
3. The Assistant Personnel Officer (RRC)
Railway Recruitment Cell, Lajpat Nagar-1,
New Delhi. ... Respondents

(Through Shri R.N. Singh, Advocate)

OA No.281/2015

Ms. Alpam Lata
W/o Sh. Subhash Kumar
R/o C-3/82, Sector-5,
Rohini, Delhi-85.
(Aged 28 years
Candidate towards Railway Recruitment) ...Applicant

(Through Sh. Ajesh Luthra, Advocates)

Versus

1. Union of India
Through its General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Railway Recruitment Cell
Through its Assistant Personnel Officer,
(Northern Railway), Lajpat Nagar-1
New Delhi-24. ... Respondents

(Through Shri R.N. Singh, Advocate)

OA No.475/2015

Anil Kumar
S/o Shri Ramdhari
R/o Vill. Karni. P.O. Tharu
Teh. Sonapat, Distt. SonapatApplicant

(Through Shri Ajesh Luthra, Advocate)

Versus

1. Union of India
Through its General Manager,
Northern Railway, Baroda House,
New Delhi.

2. The Railway Recruitment Cell
Through its Assistant Personnel Officer,
(Northern Railway), Lajpat Nagar-1
New Delhi-24. ... Respondents

(Through Shri R.N. Singh, Advocate)

OA No.1061/2015

Anita Meena W/o Shri Gopal Das Meena
R/o Vill. & PO: Para, Teh. Rajgarh
Distt. Alwar, Rajasthan
Aged about 29 yearsApplicant

(Through Shri U.Srivastava, Advocate)

Versus

1. Union of India
Through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Railway Recruitment Cell
Through its Secretary,
Northern Railway, Lajpat Nagar-I
New Delhi
3. The Assistant Personnel Officer (RRC)
Railway Recruitment Cell, Lajpat Nagar-1
New Delhi ... Respondents

(Through Shri Kripa Shankar Prasad, Advocate)

OA No.3628/2013

Dev Dutt S/o Shri Phool Kanwar
R/o VPO Chhatera Bhadur Pur
Distt. Sonapat (Haryana)Applicant

(Through Shri Ajesh Luthra, Advocate)

Versus

1. Union of India
Through the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Assistant Personnel Officer

Railway Recruitment Cell, Lajpat Nagar-1
New Delhi-24

... Respondents

(Through Shri V.S.R. Krishna and Shri Satpal Singh, Advocates)

ORDER

Mr. P.K. Basu, Member (A)

Since the issue involved in OA Nos. 4143/2013, 126/2015, 132/2015, 281/2015, 475/2015, 1061/2015 and 3628/2015 is the same, we have heard the matters together and dispose them of by this common order.

2. Shri U. Srivastava, Shri Yogesh Sharma and Shri Ajesh Luthra represented the applicants in these matters and Shri V.S.R. Krishna, Shri R.N. Singh, Shri Kripa Shankar Prasad and Shri Satpal Singh appeared on behalf of respondents.

3. The case of the applicants is that they appeared for recruitment against group 'D' posts advertized by the Railway Recruitment Cell, Northern Railway. They were issued admit cards and they appeared in the written test, physical test and medical examination. However, when the results were declared, the applicants found themselves to be unsuccessful and on the website of the railways, it was written "Case rejected by experts". The case of the applicants is that vide this cryptic order, they have been denied recruitment without providing any opportunity to them to understand on what specific grounds their cases have been rejected by experts; the report of the

experts has not been provided to them and they have not been given any opportunity at all to defend their case before the authorities, thus stating that this is against the principles of natural justice.

4. We quote below the prayers of the applicants in OA 3628/2013, which is similar to prayer in other OAs:

“That the Hon’ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents rejecting the case of the applicant for his appointment to Group ‘D’ posts in Northern Railway as per the employment notification dated 17.12.2010 is totally illegal, arbitrary and discriminatory and consequently pass an order of quashing the rejection letter available on internet Annexure A/1.

That the Hon’ble Tribunal may further graciously be pleased to pass an order directing the respondents to consider and to issue the offer of appointment to the applicant to any group ‘D’ posts in Northern Railway as per the employment notification dated 17.12.2010 with all consequential benefits from the date of appointment of similarly situated persons from the same employment notification.”

5. Shri U. Srivastava, learned counsel presented before us the order of Chandigarh Bench of the Central Administrative Tribunal (CAT) in OA 060/00574/2015, **Sandeep Kumar Vs. Union of India and another**, which was regarding the same examination and the Chandigarh Bench passed the following order:

"6. In addition to the aforesaid, science of comparison of handwriting, is not a perfect science whereas science of comparison of thumb impressions / finger prints is a perfect science. When thumb impressions of the applicant are also available on various documents as specifically pleaded by the applicant and not controverted by the respondents, the respondents, besides comparing handwriting and signatures of the applicant on various documents should also have got compared his thumb impressions on the said documents. It would have confirmed or ruled out alleged impersonation of the applicant by someone else in the examination.

7. For the aforesaid reasons, we are allowing this OA without going into the merits of the action that may be taken against the applicant for alleged impersonation in the examination. Accordingly, result Annexure A-7 and order Annexure A-8 whereby candidature of the applicant has been rejected are set aside. The respondents shall be at liberty to take fresh appropriate action in accordance with law regarding candidature of the applicant."

It is prayed that a similar order may be passed in this case as the facts and circumstances are the same.

6. It has been submitted that the applicants have not been told any specific ground on the basis of which their candidature has been rejected nor were they given any opportunity whatsoever to defend their case, thus violating the principles of natural justice.

7. Shri Ajesh Luthra, while agreeing with the contentions of Shri U. Srivastava, learned counsel, also drew our attention to

the copy of the so called expert report (R-4) in OA 3628/2013, which is as follows:

“On cross verification of original OMR, application and document verification data, it is certified that the three documents marked A1 to A3 on the basis of handwriting and signature do not match with each other.”

It is contended that this is not by a government official but an Ex. Government Examiner. He further raised the following issues with reference to this document:

- (i) The document is a very cryptic three line advice and has not examined in detail the various forensic aspects that establishes that signatures/handwriting do not match;
- (ii) It is also not clear whether some kind of coding was used or not, in the absence of which tampering becomes easy; and
- (iii) Whether original documents have been examined or copies thereof, which makes lot of difference.

8. The learned counsel, Shri Ajesh Luthra further argued that on every document, apart from signature, the thumb impression was also there and as such, it was very easy for the respondents to verify that it was of the candidate or not. He further added that the respondents have made no allegation of impersonation

by the applicants and, therefore, they cannot take that stand now having not taken such stand in their rejection letter or the counter reply. He stated that since there were invigilators in the room, the respondents stand would demonstrate that the invigilators allowed such impersonation and, therefore, it is total failure of the examination system and as a result, the whole examination process should be scrapped.

9. Lastly, it is stated that by following such an opaque method, if the respondents are allowed such unbridled power of rejecting any candidature, then it may lead to nepotism and someone in the respondents' office may use this as a tool to adjust a person of his choice.

10. Shri Yogesh Sharma, learned counsel adopted the arguments put forward by Shri U. Srivastava and Shri Ajesh Luthra but he added that the respondents have taken the ground of non-joinder of necessary parties, which is not valid because at the initial stage itself, the Tribunal had ordered that appointment, if any, would be subject to the outcome of the OAs.

11. Shri V.S.R. Krishna, learned counsel for the respondents stated that in the examination under question, lakhs of candidates appeared and in order to maintain integrity of the system, certain checks had been introduced by the respondents. It is also pointed out that the railways vide letter dated

15.06.2012 have issued instructions regarding engagement of retired Government Examiners of Questioned Documents for the purpose of examining documents and there is a list enclosed to this letter from which the examiners are chosen. It has been stated that it is not that a private examiner is chosen at random.

12. Both Shri Krishna and Shri Kripa Shankar Prasad, representing the respondents, stated that in the advertisement itself, in para 9 under the heading "INVALID APPLICATIONS", inter alia, it is mentioned that "Applications without signature or with signatures in capital letters or with different signatures at different places" would be one of the grounds for treating the application as an invalid application and in this case, the experts have found that signatures at different places do not tally. For example, the applicant in OA 3628/2013 has also signed in capital letters (Annexure R-2) and differently at different places and thus his application has rightly been rejected as invalid by the respondents. In this regard, Shri Kripa Shankar Prasad, learned counsel further relied on order of the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 706/2014, **U.O.I. & another Vs. Sarwan Ram & another**, where it was held as follows:

"Condition No.8.7(i) is one of the conditions mandate mentioned in the employment notice. We are of the view that in 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. In such

circumstances, it was not open to the High Court to direct the authorities 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. " High Court under Article 226 of the Constitution of India is not competent to scrutinize the applications filed for appointment and cannot substitute its own opinion based on some evidence to come to a conclusion whether the application form is defective."

13. Shri R.N. Singh, learned counsel, while adopting the arguments put forth by Shri V.S.R. Krishna, added that even before the order of the Chandigarh Bench of the Tribunal in Sandeep Kumar (supra), the Chandigarh Bench itself has passed order dated 9.07.2014 in OA 1355/HR/2013, **Deepak Vs. Union of India and another**, in which the Tribunal rejected the OA holding as follows:

"8. We have given our thoughtful consideration to the matter. It is evident from the material on record that the declaration to be recorded by the candidate in his own handwriting has not been so recorded by the applicant. Application forms are carefully designed by the recruiting authorities and directions prescribed in the Employment Notice have to be complied with. Non compliance with the same resulting in rejection of an application cannot be termed as a frivolous action. Hence the applicant's application form which was not in conformity with the conditions prescribed in the Employment Notice issued on 17.12.2010 was rightly rejected and at this stage the applicant cannot challenge the rejection of his candidature as he has himself filled the application form incorrectly."

It was further added that Principal Bench of the Tribunal in OA 2356/2014, **Sh. Devendra Kumar Vs. The General Manager,**

Northern Railway and another, vide order dated 27.07.2015

dismissed a claim on the same issue holding as follows:

"3. Learned counsel for the respondents has also produced copies of the relevant documents referred to the Forensic Documents Consultant & Ex. Govt. Examiner of Questioned Documents, MHA, Govt. of India and their certificate stating that on cross verification of original OMR sheet, his handwriting and signatures were not matching. We have also seen the signatures and the handwritings of the applicant in the application form and in OMR Sheet. Even without the advice of the expert also, the differences in the signatures and handwritings in the documents are quite glaringly visible."

14. Shri R.N. Singh, learned counsel, therefore, argued that the order dated 4.11.2015 in Sandeep Kumar (supra) of the Chandigarh Bench of the Tribunal is clearly per incuriam as it failed to take note of its earlier order dated 9.07.2014 in Deepak (supra) as also the order of the Principal Bench of the Tribunal in Sh. Devendra Kumar (supra).

15. We have heard the learned counsel for the parties and gone through the pleadings available on record.

16. It is clear that the Chandigarh Bench of the Tribunal in Deepak (supra) and the Principal Bench of the Tribunal in Sh. Devendra Kumar (supra) have rejected similar pleas in those cases and, therefore, to the extent that Chandigarh Bench has not taken note of these orders while passing order in Sandeep Kumar (supra), clearly renders that order per incuriam. Thus

the order in Sandeep Kumar (supra) will not act as a precedent and the orders in Deepak (supra) and Sh. Devendra Kumar (supra) will hold the field.

17. On the ground that expert report is not by any government agency, it has been demonstrated by the respondents that due to large number of such cases, the railways made a panel of experts and notified it also. They used these experts for such examinations all over the country and the experts have examined the documents and given a clear finding that there was indeed mismatch of handwriting and signatures.

18. Moreover, as argued by Shri Krishna and Shri Kripa Shankar Prasad, the advertisement itself clearly laid down that in case the candidates failed to put their signatures or signed in capital letters or there being different signatures at different places, their applications are liable to be rejected. In these cases, we find that indeed the signatures have been in capital letters/ the signatures are different at different places and the handwriting differs from document to document. This is clear even from a simple examination of the documents, even without relying on an expert. Therefore, even if we concede the argument that no impersonation has been pleaded and this has been taken as a ground now, on the basis of column 9 of the advertisement, the rejection of the candidature cannot be questioned.

19. In view of above discussion, we find no merit in the OAs and these are, therefore, dismissed. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

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