

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 4301/2017
MA 826/2018

Reserved on 11.10.2018
Pronounced on 01.11.2018

Hon'ble Mr. K.N.Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Anees Ahmed (Appointment)
Aged About 34 years,
S/o SH. Hamim Ahmad,
RO H.No.476, Street No. 23,
Vijay Park, Maujpur,
Delhi-110053.

... Applicant

(By Advocate: Mr. M.K.Bhardwaj)

VERSUS

1. Union of India
Through its Chairman, Railway Board,
Ministry of Railways,
Railway Board, Rail Bhawan,
Raisina Road, New Delhi.
2. Chairman & Managing Director,
RITES Ltd., Regd.Office: Scope Minar,
Laxmi Nagar, Delhi-110092
&
Corporate Office :Rites Bhawan,
Plot No.1, Sector-29, Gurgaon-122001.
3. The Chief Executive Officer,
Railway Energy Management Company Ltd.,
Joint Venture of Indian Railways & Rites,
Plot No.1, Sector-29, Gurgaon-122001
4. The Executive Director,
Corporate Office: RITES Bhawan,
Plot No.1,
Sector-29, Gurgaon-122001.

... Respondents

(By Advocate: Mr. G.S.Chaturvedi)

ORDER**Hon'ble Mr. S.N.Terdal, Member (J):**

We have heard Mr. M.K.Bhardwaj, counsel for applicant and Mr. G.C.Chaturvedi, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In OA, the applicant has prayed for the following reliefs:

- “(i) To quash and set aside the impugned order dated 28.11.2017 (A-1) and direct the respondents to appoint the applicant to the post of Engineer Electrical w.e.f. 17.04.2017 with all consequential benefit including arrears of pay as given to other selected candidates.
- (ii) To declare the action of respondents in not appointing the applicant to the post Engineer (Electrical) in April 2017 alongwith other selected candidates as illegal and direct the respondents to appoint the applicant to the aforesaid post of Engineer (Electrical) as per his selection against Notice dated 06.02.2017-VC No.60/16 with all consequential benefits including arrears of pay from the date of appointment of other selected persons.
- (iii) To allow the OA with cost.
- (iv) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

3. The relevant facts of the case are that the applicant had applied for the post of Engineer (Electrical) in the respondent-organization against the Vacancy Code No. 61/2016. He was short listed. As per the procedure he had filled up the attestation form on 10.04.2017, which was to be sent to the Commissioner of Police for the purpose of verification. Against point no. 12 in the said form, he has stated that he has never been prosecuted. But, however, on the perusal of a Memorandum of Understanding (MOU) entered into between the applicant and his ex-wife Smt.Adeeba Kokab D/o Mr. Mohd.Yameen, it

is seen that an FIR No. 156/15 under section 406/498A/34 IPC, was pending with Bhajanpura, Police Station. After entering into an agreement with the said ex-wife Smt. Adeeba Kokab, he got the said FIR set aside.

4. In the said attestation form there was a clear warning to the effect that suppression of any factual information in the attestation form would disqualify and render the candidate unfit for employment in the respondent-organization and if the suppression of the information were to come to the notice of the respondent-employer after the appointment, the services would be liable to be terminated.

The said portion of the attestation form is extracted below:-

"WARNING

1. The furnishing of false information or suppression of any factual information in the Attestation Form would be disqualification and is likely to render the candidate unfit for employment in the Government/PSU.
2. If detained, convicted, debarred etc. subsequent to the completion and submission of this form, the details should be communicated immediately to the RITES Limited, I, RITES Bhawan, Sector 29, Gurgaon (Haryana) or the authority to whom the attestation form has been sent earlier as the case may be failing which, it will be deemed to be a suppression of factual information.
3. If the fact that false information has been furnished or that there has been suppression of any actual information in the attestation form comes to the notice at any time during the service of a service of a person, his/her service would be liable to be terminated."

5. That applicant had filed OA No.2394/2017 against the respondents for not appointing him even after he was short listed and also on the ground that the respondents were not given any reply to

his representation. While disposing of the said OA, this Tribunal vide its order dated 21.07.2017 directed the respondents to dispose of his representation by a speaking order. In compliance with the said order passed by this Tribunal dated 21.07.2017, the respondents passed the impugned order dated 28.11.2017 giving the facts and reasons for not giving appointment to the applicant.

6. The counsel for the applicant has not disputed the above facts nor can he dispute the above facts. The counsel for the applicant has brought our notice that immediately before filling up the said attestation form another FIR was filed by another wife of the applicant Smt. Rizwana Bano bearing FIR No. 0389/2016 dated 22.05.2016 wherein the wife of the applicant had filed the said FIR against the brother of the applicant. He further submitted that another FIR No. 420/2017 dated 06.08.2017 was also filed against the applicant alleging dowry harassment. He further submitted that the said FIR No. 0389/2016 and FIR No. 420/2017 are only the FIRs pending against the applicant and no other FIRs are pending against him. But, however, the counsel for the respondents equally vehemently submitted that from the perusal of the MOU entered into by the applicant with his earlier wife referred to above, it is clear that prosecution under FIR 156/15 was pending against the applicant before the filling up of the form, which he suppressed. As such, there is a clear case of suppression of the fact as required to be disclosed in the above said attestation form.

7. In view of the facts and circumstances narrated above, we are of the opinion that the impugned speaking order dated 28.11.2017 cannot be interfered with and this OA is devoid of merit.

8. Accordingly, OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(K.N.Shrivastava)
Member (A)

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