

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

ORIGINAL APPLICATION NO.290/00147/2014

JODHPUR, THIS THE 8TH DAY

OF MAY, 2018

CORAM:

HON'BLE MR. R.RAMANUJAM, MEMBER (A)

HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)

**MANAK SINGH S/O SHRI ANOP SINGH, AGED ABOUT 26 YEARS, RESIDENT
OF VILLAGE AND POST-TENA (NAHAR SINGH NAGAR), TEHSIL- SHERGARH,
DISTT. JODHPUR (RAJ) – 342028.**

...APPLICANT

(BY ADVOCATE: SHRI J.K.MISHRA)

VERSUS

**1. UNION OF INDIA THROUGH GENERAL MANAGER, NORTH-WESTERN
RAILWAY, MALVIYA NAGAR, NEAR JAWAHAR CIRCULE, JAIPUR-17.**

**2. CHAIRMAN, RAILWAY RECRUITMENT CELL, NORTH-WESTERN RAILWAY,
DURGAPURA STATION, JAIPUR.**

**3. DY. CHIEF PERSONNEL OFFICER (RECTT)., RAILWAY RECRUITMENT CELL,
NORTH-WESTERN RAILWAY, JAIPUR.**

...RESPONDENTS

**(BY ADVOCATE: MR. DARSHAN JAIN PROXY COUNSEL FOR MR. VINAY
JAIN)**

ORDER (ORAL)

PER HON'BLE MR. R. RAMANUJAM, MEMBER (A)

HEARD BOTH SIDES.

2. THE APPLICANT HAS FILED THIS OA SEEKING THE FOLLOWING RELIEFS:-

“(I) THAT IMPUGNED ORDER/PANEL DATED 20.03.2014 (ANNEXURE-A/I) TO THE EXTENT OF DECLARING THE APPLICANT AS UNFIT MAY BE DECLARED ILLEGAL AND THE SAME MAY BE QUASHED. THE RESPONDENTS MAY BE DIRECTED TO CONSIDER THE CANDIDATURE OF APPLICANT FOR VERIFICATION OF DOCUMENTS ON THE BASIS OF EDUCATIONAL CERTIFICATES & DISABILITY CERTIFICATE ISSUED BY COMPETENT AUTHORITY AND THEY MAY ALSO BE DIRECTED TO PLACE THE NAME OF APPLICANT IN THE SELECT PANEL AT APPROPRIATE PLACE ON THE BASIS OF MERIT WITH ALL CONSEQUENTIAL BENEFITS.

(II) THAT THE RESPONDENTS MAY BE DIRECTED TO PRODUCE THE ORIGINAL RECORD OF SELECTION PROCEEDING HELD IN PURSUANCE OF EMPLOYMENT NOTICE NO.2/12 DATED 08.09.2012 PERTAINING TO THE APPLICANT.

(III) THAT ANY OTHER DIRECTION, OR ORDERS MAY BE PASSED IN FAVOUR OF THE APPLICANT WHICH MAY BE DEEMED JUST AND PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THIS CASE IN THE INTEREST OF JUSTICE.

(IV) THAT THE COST OF THIS APPLICATION MAY BE AWARDED.”

3. IT IS SUBMITTED THAT THE APPLICANT APPLIED FOR VARIOUS POST IN PAY BAND 5200-20200 GP R.1800/- IN THE RESPONDENT DEPARTMENT IN RESPONSE TO A NOTIFICATION DATED 08.02.2012 INVITING APPLICATIONS IN THE PRESCRIBED FORMAT. THE APPLICANT CAME UNDER THE PHYSICALLY HANDICAPPED QUOTA HAVING BEEN CERTIFIED TO BE MORE THAN 40% ORTHOPEDICALLY DISABLED. A WRITTEN EXAMINATION WAS HELD ON 08.01.2014 FOR SELECTION TO THE POSTS AND THE APPLICANT EMERGED SUCCESSFUL. HE APPEARED BEFORE THE AUTHORITIES ON 31.01.2014 FOR SUBMISSION OF ORIGINAL DOCUMENTS FOR VERIFICATION. HOWEVER, HE WAS DECLARED ‘UNFIT’ THEREAFTER WITHOUT DISCLOSING ANY REASONS. AGGRIEVED BY THE REJECTION OF HIS CANDIDATURE IN THIS MANNER AFTER BEING DECLARED SUCCESSFUL IN THE WRITTEN EXAMINATION, THE APPLICANT IS BEFORE US.

4. LEARNED COUNSEL FOR THE RESPONDENTS DRAWING ATTENTION TO CLAUSE 17.07 OF THE EMPLOYMENT NOTIFICATION RAISES A PRELIMINARY OBJECTION REGARDING THE MAINTAINABILITY OF THIS OA IN THIS BENCH. IT IS CONTENDED THAT ANY LEGAL DISPUTE COULD ONLY BE AGITATED BEFORE THE CAT, JAIPUR BENCH.

5. THE LEARNED COUNSEL FOR THE APPLICANT WOULD, HOWEVER, CONTEST THE LEGALITY OF SUCH A STIPULATION STATING THAT AS PER THE ADMINISTRATIVE TRIBUNALS ACT AND THE RULES FRAMED THEREUNDER, THE JODHPUR BENCH HAD JURISDICTION AS THE

APPLICANT OPTED FOR EMPLOYMENT IN JODHPUR AND BIKANER DIVISIONS. FURTHER, THE APPLICANT IS A RESIDENT OF JODHPUR. SUCH STATUTORY JURISDICTION OF THIS BENCH COULD NOT BE OUSTED BY AN EMPLOYMENT NOTICE TO THE CONTRARY.

6. WE HAVE CONSIDERED THE PRELIMINARY OBJECTION. SINCE THE APPLICANT IS A RESIDENT OF JODHPUR AND THE RESPONDENTS HAD INVITED APPLICATIONS FOR EMPLOYMENT AT VARIOUS PLACES AT RAJASTHAN INCLUDING JODHPUR, SUCH A PROVISION THAT THE JAIPUR BENCH ALONE OF THIS TRIBUNAL WOULD HAVE THE JURISDICTION DOES NOT APPEAR TO BE IN CONSONANCE WITH THE ADMINISTRATIVE TRIBUNALS ACT AND THE RULES FRAMED THEREUNDER. THE SOURCE OF AUTHORITY OF THE EMPLOYER TO OUST THE JURISDICTION OF BENCHES IN THIS MANNER IS NOT INDICATED. ACCORDINGLY, PRELIMINARY OBJECTION RAISED BY THE RESPONDENTS IS OVERRULED.

7. LEARNED COUNSEL FOR THE RESPONDENTS WOULD SUBMIT THAT THE APPLICANT WAS REQUIRED TO STRICTLY COMPLY WITH THE PROVISIONS OF NOTIFICATION DATED 08.09.2012 IN REGARD TO SUBMISSION OF DOCUMENTS. IT WAS NOTICED THAT THE APPLICANT HAD NOT SIGNED AT THE RELEVANT PLACE IN THE CERTIFICATE ISSUED BY THE MEDICAL BOARD CONCERNED REGARDING HIS PERMANENT DISABILITY. THE CERTIFICATE PRODUCED BY THE APPLICANT AT THE TIME OF DOCUMENT VERIFICATION DID NOT MATCH WITH THE CERTIFICATE PROVIDED AT THE TIME OF SUBMISSION OF APPLICATION FORM. THE APPLICANT HIMSELF HAD ACCEPTED THAT HE APPENDED HIS SIGNATURE IN THE ORIGINAL CERTIFICATE SUBSEQUENTLY WITHOUT INFORMING THE COMPETENT AUTHORITY. ACCORDINGLY, THE CERTIFICATE WAS NOT CONSIDERED AUTHENTIC AND HIS CANDIDATURE WAS REJECTED.

8. WE HAVE CONSIDERED THE MATTER. IT IS NOT DISPUTE THAT THE APPLICANT HAD APPLIED FOR EMPLOYMENT IN RESPONSE TO THE NOTIFICATION DATED 08.09.2012 AND WAS DECLARED SUCCESSFUL IN THE WRITTEN EXAMINATION. IT APPEARS THAT THE APPLICANT PRODUCED A PHOTO COPY OF THE CERTIFICATE AS AVAILABLE AT THE TIME OF SUBMITTING HIS APPLICATION, WHICH DID NOT CONTAIN HIS SIGNATURE. AT THE TIME OF DOCUMENT VERIFICATION, THE APPLICANT NOTICED IT AND CONSEQUENTLY APPENDED HIS SIGNATURE IN THE ORIGINAL CERTIFICATE SO AS TO AVOID REJECTION OF HIS CANDIDATURE ON THAT GROUND.

9. THE ISSUE IS WHETHER THE APPLICANT'S CANDIDATURE IS LIABLE TO BE REJECTED ONLY FOR THE REASON THAT HE DID NOT APPEND HIS SIGNATURE ON THE ORIGINAL CERTIFICATE AT THE TIME WHEN IT WAS ISSUED. A CAREFUL PERUSAL OF THE CERTIFICATE WOULD SHOW THAT THE SAME HAD BEEN SIGNED BY CHAIRMAN AND OTHER MEMBERS OF THE MEDICAL BOARD. THE APPLICANT'S PHOTO ALONG WITH HIS SIGNATURE IS ALSO PASTED THEREON. THERE IS NOTHING TO INDICATE THAT THE CERTIFICATE WAS NOT GENUINE EXCEPT FOR THE

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LAPSE OF OMISSION ON THE PART OF THE APPLICANT TO SIGN AT THE RELEVANT PLACE. CLEARLY, SUCH OMISSION WAS INADVERTENT AND DOES NOT VITIATE THE GENUINENESS OF THE CERTIFICATE. WE ARE ACCORDINGLY OF THE VIEW THAT IT IS NOT A FAIR GROUND FOR REJECTION OF THE CANDIDATURE OF THE APPLICANT WHO HAD EMERGED SUCCESSFUL IN THE WRITTEN EXAMINATION. WE, THEREFORE, HAVE NO HESITATION TO DIRECT THE RESPONDENTS TO ACCEPT THE MEDICAL CERTIFICATE OF THE APPLICANT AND PROCEED WITH THE REST OF THE PROCESS CONCERNING THE CANDIDATURE OF THE APPLICANT FOR SELECTION IN ACCORDANCE WITH THE NOTIFICATION / RULES.

10. OA IS DISPOSED OF IN THE ABOVE TERMS. NO COSTS.

**[SURESH KUMAR MONGA]
[R.RAMANUJAM]
MEMBER (J)
MEMBER (A)**

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