



CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. OA 350/621/2016
 MA 350/448/2016
 MA 350/126/2017
 MA 350/367/2017
 MA 350/436/2017

Present : Hon'ble Mr. Justice Vishnu Chandra Gupta, Judicial Member
 Hon'ble Ms. Jaya Das Gupta, Administrative Member

VIJOY KUMAR GHOSH

VS

UNION OF INDIA & ORS.

For the applicant : In person

For the respondents : Mr. B.L. Gangopadhyay, counsel

O R D E R8.9.2017

Ms. Jaya Das Gupta, A.M.

The applicant Shri Vijay Kumar Ghosh has approached CAT under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- a) to issue direction upon the respondent to quash, cancel and/or set aside the impugned order dated 6.1.2015 and 19.6.2015 forthwith;
- b) to issue further direction upon the respondent to give the post to the applicant as Inspector of Income Tax, where the applicant is eligible for the said post forthwith;
- c) to issue further direction upon the respondent to give the post of Inspector of Income Tax forthwith;
- d) any other order or orders as the Learned Tribunal deem fit and proper;
- e) to produce connected departmental record at the time of hearing.

2. All the MAs seeking early hearing/immediate hearing are allowed.
3. The case of the applicant is that he had appeared for the Combined Graduate Level Examinations for the years 2013 and 2014 for the post of Group 'C' conducted by Staff Selection Commission. As per stipulations in the advertisement in the Employment News, since he is already working as

Technician Group I (SIG) GMH under SSE (SIG)/TATA in S.E. Railway, he had to obtain an NOC for age relaxation to the effect that he has rendered not less than three years regular and continuous service as on the closing date given in the advertisement for the examination for 2013. As per the advertisement issued by Staff Selection Commission regarding the Combined Graduate Level Examination, 2013, para 6 of the Employment News dated 19-25.1.2013 is relevant and is set out below :

“6. Central Government civilian employees claiming age relaxation should produce a certificate in the prescribed format from their office **at the time of Interview/skill test/document verification**, in respect of the length of continuous service which should be for **not less than three years during the period immediately preceding the closing date for receipt of application**. They should remain Central Government civilian employees till the time of appointment, in the event of their selection.”

4. However, as per the submission made by the applicant who appears in person, he fairly submits that he could not obtain the NOC on time. So inspite of the fact that on the basis of the results of the written examination and re-examination held as per Examination of 2013 the applicant was found provisionally eligible for document verification and called for interview, he was not selected. Therefore the issue of impugned letter dated 6.1.2015 (Annexure A/4) is justified. As per the impugned order dated **6.1.2015** his candidature was rejected by the following order of the respondent authorities i.e. Staff Selection Commission :

“No.3/22/2014-Exam.II
 Government of India -
 Department of Personnel & Training
 Staff Selection Commission (ER)
 1st MSO Building, 8th Floor, Nizam Palace
 234/4/ AJC Bose Road, Kolkata - 700020.

Dated : 6.1.2015

M E M O R A N D U M

Subject : **Combined Graduate Level Examination, 2013**

With reference to his/her candidature for the above mentioned examination, Shri Vijoy Kumar Ghosh Roll No. 4205030082 is hereby informed that during the scrutiny/verification of documents prior to the interview of the said examination held on 6.1.2015, he was found ineligible for any post advertised through the notice of examination under reference published in the Employment News dated 19.1.2013 on the following grounds :

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NO DOCUMENT ISSUED BY COMPETENT AUTHORITY IN
USPPORT OF THE CLAIM OF PUTTING IN THREE YEARS
CONTINUOUS SERVICE AS CGCE CANDIDATE PRODUCED,
HENCE FOUND OVERAGE AS UR CANDIDATE.

Therefore, the candidature of Shri Vijoy Kumar Ghosh Roll No. 4205030082 is treated as cancelled. Simultaneously, he will forfeit all claims of appointment through the said Examination.

Sd/-
DIPANKAR DUTTA
DEPUTY DIRECTOR."

5. It is evident that regarding the Combined Graduate Level Examination 2013 he was intimated of the rejection letter on 6.1.2015 and apparently no representation had been made by the applicant to the authorities as nothing is on record. As the present OA has been filed on 13.4.2016 the applicant is barred from asking the relief for setting aside the impugned order dated 6.1.2015 as no MA application for condonation of delay has been filed for the relief asked for setting aside the impugned order dated 6.1.2015

6. It is the further submission of the applicant that he had also applied for the Combined Graduate Level Examination in 2014 where it was clearly stipulated in the advertisement that NOC was required from his present employer regarding age relaxation and that he has completed three years of regular service as on the prescribed date. This is as per notification issued for **Combined Graduate Level Examination 2014** published in the **Employment News dated 18.1.2014**:

"6. Central Government civilian employees claiming age relaxation should produce a certificate in the prescribed format from their office **at the time of Interview/skill test/document verification**, in respect of the length of continuous service which should be for **not less than three years during the period immediately preceding the closing date for receipt of application**. They should remain Central Government civilian employees till the time of appointment, in the event of their selection."

7. For the 2014 examination it is not known when the applicant applied for NOC as no document is on record. However, from para 7 of the rejoinder submitted by the applicant it appears that when he prayed several times for NOC, and on July 15 CKP authority issued a letter in which they stated that the applicant has not submitted Employment News along with the application for NOC due to which the applicant's NOC was not issued. The applicant in the

rejoinder further goes on to say that he submitted both by email and also by post several times the notification pages of ssc.nic in place of Employment News. However, no documentary evidence has been given by the applicant on record to verify his submissions in para 7 of the rejoinder. Neither is the letter dated July 2015 of CKP authority has been made a part of the pleadings.

8. Also it appears from Annexure A/5 which is a communication to the applicant from the respondent authorities dated 1.6.2015 that on the basis of the results of written examination (TR-1 & TR-2) declared by the Commission for 2014 examination he was found provisionally eligible for document verification and called for interview/document verification on **19.6.2014**.

9. From Annexure A/6 dated 19.6.2015 which is set out below, it appears that his case was again rejected because he did not submit the required NOC on time :

"No.3/10/2015-Exam.II
Government of India
Department of Personnel & Training
Staff Selection Commission (ER)
1st MSO Building, 8th Floor, Nizam Palace
234/4/ AJC Bose Road, Kolkata - 700020.

Dated : 19.6.2015

M E M O R A N D U M

Subject : **Combined Graduate Level Examination, 2014**

With reference to his/her candidature for the above mentioned examination, **Shri Vijoy Kumar Ghosh Roll No. 4205018917** is hereby informed that during the scrutiny/verification of documents prior to the interview of the said examination held on 19.6.2015, he was found ineligible for any post advertised through the notice of examination under reference published in the Employment News dated 18.1.2014 on the following grounds :

THE CGCE CERTIFICATE SUBMITTED BY HIM IS NOT IN THE PRESCRIBED FORMAT AS IT DOES NOT CONTAIN NOC AND HE HAS ALSO NOT SUBMITTED NOC SEPARATELY. HENCE HE IS TREATED AS A UR CATEGORY CANDIDATE AND AS UR CATEGORY CANDIDATE HE IS OVERAGED.

Therefore, the candidature of **Shri Vijoy Kumar Ghosh Roll No. 4205018917** is treated as cancelled. Simultaneously, he will forfeit all claims of appointment through the said Examination.

Sd/-
DIPANKAR DUTTA
DEPUTY DIRECTOR."

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10. From Annexure A/7 which is a communication dated 30.12.2015 from respondent authority it appears that the applicant has been extended **post facto approval** towards appearing in the examination (**it is not mentioned for which year**). The same is set out below :

“South Eastern Railway

Office of the
Sr. Divl. Personnel Officer
Dated 30.12.2015

Office Order No. SER/P/CKP/EN/884/VKG/2015

Post facto approval of the competent authority i.e. CSE/GRC is hereby communicated towards appearing in the examination of Sri Vijay Kumar Ghosh, Tech.I(Sig)/GMH to the post of Inspector of Income Tax conducted by Staff Selection Commission as sent by vide CPO/GRC vide his letter No. SER/P.HQ/EN/884/VKG dtd 29.12.2015.

Asstt. Personnel Officer
S.E.Rly/Chakradharpur”

It is not apparent from such communication that post facto approval was given for the examination pertaining to which year. There is also another communication dated 8.1.2016 which is set out below, regarding his length of service in the S.E. Railway. But also from this communication dated 8.1.2016 **it is not clear for which examination this certificate has been given**. The communication dated 8.1.2016 is set out below :

“SOUTH EASTERN RAILWAY

Dhirendra Nath Diggi IRPS
Divisional Railway Manger (P)
S.E.Railway, Chakradharpur,
West Singhbhum, Jharkhand – 833102
Phone & FAX No. – 080-72430 (Rly),
06587-288324(P&T)
Mob.9771482600
Date – 8.1.2016

TO WHOM IT MAY CONCERN

This is to certify that Sri Vijay Kumar Ghosh, S/o Shambhu Nath Ghosh working as Technician Gr.I(Sig)/GMH under SSE (Sig)/TATA in Pay Band Rs.5200-20200/- + Grade Pay Rs.2800/-, is a bonafide employee, under control of Divisional Signal and Telecom Engineer (Co-ord)/S.E.Railway/Chakradharpur since 9.5.2002 to till date.

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Sd/-
 Dhirendra Nath Diggi IRPS
 Divisional Railway Manger (P)
 S.E.Railway, Chakradharpur."

11. The reply submitted by the S.E. Railway on 1.12.2016 leaves much to be desired as it is not clear whether the NOC issued on 30.12.2015 and a certificate dated 8.1.2016 pertains to the Combined Graduate Level Examination, 2014. Obviously if these two certificates are given either for the examination 2013 or 2014, the above two documents are of no value to the applicant as date of presentation of these documents to Staff Selection Commission was required on 6.1.2015 for the 2013 examination and 19.6.2015 for the 2014 examination.

12. It appears from the reply which has not been refuted in the rejoinder that the applicant himself has given an undertaking that he could not produce the NOC and continuity of service certificate on the appointed dates for the Combined Graduate Level Examination, 2013 & 2014.

13. In the above circumstances no relief as asked for by the applicant in this case can be given and hence this OA is dismissed. No costs.

14. However, if the applicant wants he can take recourse to file an appropriate case before the appropriate Court against the actions taken by the S.E. Railway by not extending the NOC and certificate of tenure of service in the S.E. Railway on time.

(JAYA DAS GUPTA)

ADMINISTRATIVE MEMBER

(JUSTICE V.C.GUPTA)

JUDICIAL MEMBER

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