

OA No. 050/00452 of 2014

Order pronounced on 06.04.2018

CORAM

Rakesh Kumar Ranjan, S/o Shri Bhola Singh, R/o village and P.O Ithari, P.S
Nayaram Nagar, District – Munger (Bihar)

By Advocate : Shri M.P. Dixit

1. The Union of India through the General Manager, Eastern Railway, Kolkata.
2. The Chief Works Manager, Rail Engine Workshop, Jamalpur.
3. The Deputy chief Personnel Officer, cum Sports Officer, Rail Engine Workshop, Jamalpur.
4. The Senior Divisional Medical Officer, Rail Engine Workshop, Jamalpur.

..... Respondents

By Advocate: Shri Mukund Jee and Shri Sheo Jee Prasad

ORDER

Jayesh V. Bhairavia, M [J]:- In the present OA, the applicant has prayed for the following reliefs:-

“(8.1) That Your Lordships may graciously be pleased to quash and set aside the impugned order dated 31.3.2014 as contained in Annexure A/11 together with order dated 14.5.2007 as contained in Annexure A/14.

(8.2) That the respondents be further directed to issue offer of appointment letter to the post of Goal Keeper (Football) in favour of the applicant, henceforth in reference to Employment Notice No. E/Con/Cell/Sports-2006-07/JMP as contained in Annexure A/1.

(8.3) That the respondents be directed to grant all consequential benefits in favour of the applicant including salary

and seniority and seniority for the reason that he has illegally been denied the appointment.

(8.4) Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the applicant.”

2. The brief facts of the case are as under:-

(i) That, in pursuance of an Employment Notice No. E/Con/Cell/Sports/2006 -07/JMP against one post of Goal Keeper (Football), which was also published in daily newspaper “Hindustan” dated 9.11.2006, issued by the Chief Works Manager, Jamalpur Rail Engine Workshop, Jamalpur, the applicant has submitted his application for appointment to the said post of Goal Keeper (Football), as he playing Football as Goal Keeper and represented the State as also the national team under 19 from the recognized sports Association. (Annexure A/1 refers).

(ii) Pursuant thereto, The applicant was issued call letter with Roll No. 154 to appear in the Trial-cum-interview on 27.2.2007 (Annexure A/2). It is stated that applicant submitted documents relating to his educational qualification as Class VIII pass and certificate of his participation in Football issued by the All India Football Federation, Bihar Football Association, Jamalpur Sports Association. (Annexure A/3 series refer). It is further stated that the applicant qualified the trial test and his name was finally recommended for appointment against the said post.

(iii) The applicant asserts that in spite of his recommendation for appointment to the said post, his appointment was being delayed. Thereafter, he was informed vide letter dated 14.5.2007 under RTI that the recruitment process was not completed on time (within financial year 6-7) due to non-completion of verification of certificates / records from issuing authority and receipt of complaints. The same could not be concluded as

time has already lapsed. Hence, the recruitment has been cancelled and closed. (Annexure A/4 refers).

(iv) The applicant, thereafter, filed a case before this Tribunal through OA 31 of 2008. This Tribunal , while deciding the said OA vide order dated 29.5.2008, did not accept the respondents' plea of anonymous complaint and expiry of the life of panel, remanded the matter to the G.M., E. Railway, Kolkata to consider the case on merits and pass a speaking order within a time frame of two months. (Annexure A/5 refers).

(v) It is stated that the respondents did not comply with the said order of this Tribunal, and ultimately, the applicant filed contempt petition through CCPA No. 71 of 2008. Thereafter, the respondents filed their show cause with an order dated 20.10.2008 (Annexure A/6), rejecting the claim of the applicant on the same lines which were already rejected by this Tribunal in OA 31 of 2008.

(vi) That, in the meanwhile, the CCPA was disposed on 1.9.2009 with liberty to the applicant to file a fresh OA against the order dated 20.10.2008. (Annexure A/7 refers).

(vii) Thereafter, the applicant filed another OA 642 of 2009 which was also disposed of on 18.4.2013 by this Tribunal whereby the order dated 20.10.2008 was set aside with direction upon the said respondent no. 1 to pass order on merit after getting appropriate enquiry done in the matter of alleged complaint about the certificate of sports quota. It was further ordered that the applicant should be given intimation about the report of such enquiry with opportunity to submit his representation. (Annexure A/8 refers).

(viii) That, after expiry of more than 11 months, the applicant received copy of enquiry report dated 8.3.2014 against which the applicant made his representation dated 14.3.2014. (Annexure A/9 and A/10 refer).

(ix) Pursuant thereto, the applicant received one order dated 31.3.2014/1.4.2014 passed by respondent no. 1 whereby the applicant was denied appointment to the post of goal Keeper (Football) under sports quota.

In sum, the applicant submits that the actions of the respondents are illegal, arbitrary, unconstitutional and against the principles of natural justice.

3. The respondents, through their written statement, have submitted as under:-

(i) It is stated that the life of the said advertisement was confined to only financial year 2006-07. It is further stated that in response to advertisement, applications, including the application of the applicant were received and after initial scrutiny of applications, only 10 candidates, including the applicant were found in order. The trial test was conducted on 27.2.2007 in the presence of all the three members of the trial committee. Only four candidates including the applicant appeared in the trial on 27.2.2007. The trial committee declared only two candidates, including the applicant as "Fit". The interview was also held on the same day after which, the recruitment committee recommended the name of the applicant to be recruited in Group D category against sports quota subject to genuineness of his educational certificate as well as sports achievements certificate.

(ii) It is further submitted that the Chief Works Manager, E. Railway, Jamalpur, who was the accepting authority of the recommendation of recruitment committee, received complaint that sports achievement

certificate of the applicant was a forged one. Further that, the aforesaid recruitment process could not be completed on time by 31.3.2007 (i.e within the financial year 2006-07) due to non-completion of verification of certificates / records from the issuing authority on receipt of complaint, and as such, the same could not be concluded as the time had already lapsed and hence recruitment was cancelled and closed.

(iii) It is further submitted that the Tribunal's order dated 18.4.2013 passed in OA 642 of 2009 was complied with the issuance of speaking order dated 31.3.2014 (Annexure A/11). It is stated that the speaking order was passed as per direction given by this Tribunal.

(iv) It is further submitted that the applicant was informed of the findings of the aforesaid enquiry along with supporting details thereof as well as supportive documents. The applicant has failed to produce any substantial proof on the areas of dispute as mentioned in the enquiry report.

In sum, the respondents submit that there is no merit in the OA and the same is fit to be dismissed.

5. Heard the parties and considered their rival submissions.

6. This is a third round of litigation. It is an admitted fact that the applicant participated in recruitment process initiated for appointment of Goal Keeper (Football) in Group D under sports quota by Chief Works Manager, Rail Engine workshop, Jamalpur in the year 2006. It is also admitted that the trial/interview was held by a duly constituted committee who recommended the name of the applicant for his appointment to the said post under sports quota. However, the recruitment process could not be completed in time i.e within the financial year 2006-07.

7. It is noted that the appointment of the applicant was denied virtually on two counts. Firstly, the recruitment process was not completed within one financial year 2006-07 and secondly that the educational / sports certificate could not be verified from the issuing authority within time and consequently, the life of the panel expired.

8. It is noted that while the applicant was denied appointment, he approached this Tribunal in the year 2008 through 31 of 2008 which was decided on 29.5.2008 with direction to the G.M to consider the case of the applicant on merit within a time frame of two months. It appears that the respondents could not pass order within stipulated time. However, subsequent to the filing of CCPA by the applicant, the respondents passed the speaking order dated 20.10.2008, and thereafter the CCPA was dropped with liberty to the applicant to file a fresh OA if he is still aggrieved with the decision dated 20.10.2008.

9. Thereafter, the applicant filed OA 642 of 2009 against the speaking order passed by the respondents on 20.10.2008. This Tribunal, vide order dated 18.4.2013, quashed and set aside the impugned order dated 20.10.2008 and further directed the respondents to pass a fresh reasoned and speaking order on merit after getting appropriate enquiry done in the matter in the alleged complaints about certificate of sports quota furnished by the applicant or in any other matter, if required. The time granted for that was four months.

10. It appears that in pursuance of the order of this Tribunal dated 18.4.2013, the respondents have conducted enquiry about the genuineness of the educational qualification and sports achievement certificate of the applicant. The enquiry report dated 8.3.2014 indicates that the name of the applicant's father recorded in the admission register as " Shri Bholi Singh" whereas the same is mentioned as Shri Bhola singh in educational

qualification certificate i.e T.C No. 13/2000 of Class VIII pass issued by the Head Master, High School, Lauggain (Amarpur), Banka. The said certificate was also verified from District Programme Officer (Estt.) , Banka. The said authority has indicated the educational certificate, father's name etc as per the TC No. 13/2000. It is further noticed that the sports achievement certificates submitted by the applicant had been sent for verification to the issuing authorities and in response to it, the Secretary, Bihar Football Association, Patna authenticated the genuineness only of the certificate No. 897 issued by the AIFF whereas with regard to other certificate, it was mentioned that no record was available and with regard to certificate of participation in senior Football Championship for Santosh Trophy from 14.9.2006 to 25.10.2006, the record was not available.

11. It can be seen that vide speaking order dated 31.3.2014, the General Manager, E. Railway, Kolkata denied the claim of the applicant for his appointment against the open advertisement sports quota of Jamalpur workshop for the year 2006-07. It is further seen that as per the order passed by this Tribunal, the verification of sports and education certificate and the enquiry report was also prepared. On enquiry, it was found that out of two qualifying sports certificates furnished by the applicant, genuineness of certificate for 42 second junior U -19, National football championship held in December, 2005 could be verified from AIFF. However, other certificate issued by Bihar Football Association for Santosh Trophy in September -October 2006 could not be cross-verified due to non-availability of the record in the office of the Association. The respondents found discrepancies in educational qualification certificate as discussed above. The enquiry report along with all the relevant documents were sent to the applicant for furnishing his explanation/ representation for the same. In response to it, the applicant submitted his representation dated 14.3.2014 in which he has failed to bring out any substantial proof on the

areas of dispute as mentioned in the enquiry report and on the basis of the said observation, the respondents authorities, in its conclusion, stated that though genuineness of sports achievement could be verified but for another sports achievement and educational qualification, the verification report cannot be considered satisfactory and beyond scope of reasonable doubt since remarks of the issuing authority are not based on the available record. The mere participation in one or more stages of recruitment process does not confer any right upon the candidate for his appointment in the Railway.

12. The notification was made only for 01 sports quota for the year 2006-07 Jamalpur Workshop. The chief Works Manager, E. Railway, Jamalpur, being competent authority at the local administrative level, did not finally approve the panel as he was not fully satisfied about the process of verification of certificates and said process had not been completed by the stipulated date i.e. 31.3.2007. Moreover, as per directive of the Railway Board, the quota is allotted only for a financial year and unused quota shall lapse on expiry of financial year. Thus, unused quota for the year 2006-07 is to be treated as lapsed for Jamalpur workshop as none was appointed against the open advertisement sports quota. On this finding, the respondents did not find any merit in the case of the applicant to reopen the issue. Accordingly, the claim of the applicant was not acceded to.

13. In view of the foregoing discussion, it is clear that the applicant's case was fully considered by the respondents and on enquiry, it was found that the verification of certificates furnished by the applicant could not be completed due to non-availability of the record in the office of the issuing authority and as such, the verification was not satisfactory beyond scope of reasonable doubt since remarks of the issuing authority are not based on the available record. As per Railway Board directives, the sports quota is

allotted only for a financial year and that remained unused in the year 2006-07 for Jamalpur workshop and the entire process had not been completed within the stipulated time upon 31.3.2007. Resultantly, the said panel lapsed. It is a settled principle of law that no one has vested right to claim an appointment merely on the basis of participation in recruitment process. The recruitment process is supposed to be complete only when all requirements, including proper verification of credential of the candidates etc are fulfilled and in absence of any of such fulfilment of the requirement, the recruiting authorities are within their competence to cancel the same.

14. In conclusion, the reliefs sought by the applicant cannot be granted in the facts and circumstances as stated hereinabove. The OA, accordingly, is dismissed with no order as to costs.

(Jayesh V. Bhairavia) M [J]

(A.K. Upadhyay) M (A)

/cbs/

