

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No. 186/2012

Reserved on: 27.09.2018

Pronounced on: 14.11.2018

**Hon'ble Mr. Suresh Kumar Monga, Member (J)
Hon'ble Mr. A. Mukhopadhaya, Member (A)**

Sunil Kumar Choudhary S/o Late Shri Sita Ram Choudhary,
aged about 25 years, R/o Village Silao, Post Silao, District
Nalanda (Bihar).

...Applicant.

(By Advocate: Shri Mukesh Dudi for Shri B.S.Chhaba)

Versus

1. The Union of India through Under Secretary,
Department of Railway, New Delhi.
2. The Chairman, Railway Recruitment Board, Ajmer,
2010, Nehru Marg, Near Ambedkar Circle, Ajmer.
3. The Member Secretary, Railway Recruitment Board,
Ajmer, 2010, Nehru Marg, Near Ambedkar Circle,
Ajmer.
4. The Assistant Secretary, Railway Recruitment Board,
Ajmer, 2010, Nehru Marg, Near Ambedkar Circle,
Ajmer.

...Respondents.

(By Advocate: Shri Anupam Agarwal)

ORDER

Per: A.Mukhopadhaya, Member (A):

Briefly, the facts of this Original Application, (OA), are that
the applicant applied for the post of Technician Grade-III

(2)

Electrical Power/Electric/Diesel Electric in pursuance of an advertisement of the Railway Recruitment Board, (RRB), Central Employment Notice No.09/2010 published on 22.05.2010 in which the closing date for submission of application form was 21.06.2010 upto 17.30 hours; (Annexure A/2). Thereafter, he appeared in the examination and on being successful in the same he was summoned for verification of the supporting documents supplied by him at the time of application. Vide order No.RRB/AJ/RECT/9/10/04-07/2010 dated 03.11.2011, (Annexure A/1), he was however informed that the caste certificate dated 13.09.2009 submitted by him along with his application on 13.06.2010 was not found to be issued by the competent authority. Accordingly, his application was declared ineligible.

2. Aggrieved by this, the applicant filed OA No.95/2012 against the RRB impugned order of 03.11.2011, (Annexure A/1), and the same was disposed of vide CAT order dated 22.02.2012 by this Bench of the Tribunal giving liberty to the applicant to file a representation to the respondents on this matter as well as an opportunity to file a substantive OA, in case any prejudicial order was passed against him. The applicant thereupon did represent his case, (Annexure A/9 refers), but this representation was also rejected by RRB Ajmer, (Annexure A/10), on the ground that he had not submitted a caste certificate duly signed by any of the competent authorities specified in RRB's advertisement

(3)

No.09/2010 of 22.05.2010, (Annexure A/2), within the stipulated period prescribed i.e., 17.30 hours of 21.06.2010 and that therefore his application was rightly considered ineligible. The RRB order dated 06.03.2012, (Annexure A/10), stated further that his self- attested photocopies of the caste certificate issued by the Anchal Adhikari, Silao and countersigned by the Anumandal Adhikari, Rajgir and District Officer Nalanda were produced by him during the document verification exercise on 21.08.2011 but that this clearly showed that on the relevant date in question i.e. 21.06.2010, mentioned in the RRB advertisement, the caste certificate signed by the BDO as produced by him was not one issued by competent authority as detailed in the advertisement and therefore that his candidature was rightly rejected. Aggrieved by this, he has preferred this OA seeking the following reliefs:

- “(i) That the impugned order dated 03.11.2011, (Annexure A/1), may be quashed as well as order on his representation dated 06.03.2012 passed by the Member Secretary RRB Ajmer, (Annexure A/10), may be quashed and set aside as being illegal and the respondents be directed to give appointment to the applicant on the post of Technician Grade-III Electrical Power/Electric/Diesel Electric in the SC category, in pursuance of Employment Notice No.09/2010 with all consequential benefits.
- (ii) Any other appropriate order or direction which is deemed just and proper may also be passed in favour of the applicant.
- (iii) The OA may be allowed with costs.”

(4)

3. In reply, the respondents state that the Centralized Employment Notice No.09/2010 of the RRB, (Annexure A/2), specified that the closing date and time for submission of applications was 17.30 hours on 21.06.2010. The application submitted by the applicant within the stipulated time did not have appended with it a caste certificate signed by competent authority as prescribed in the advertisement itself. This fact has been admitted by the applicant. Further, as admitted by the applicant himself, the caste certificate countersigned by the Anchal Adhikari, Silao and countersigned by the Anumandal Adhikari, Rajgir and District Officer Nalanda was submitted afresh well after the last date for submission of application had passed and therefore, as also clarified in the order passed by the RRB on the applicant's representation, (Annexure A/10), such a caste certificate, even if authentic could not be entertained well after the last date of application had passed.

4. In their additional affidavit, the respondents have further averred that while they have made an effort to verify the facts regarding the caste certificate belatedly presented by the applicant from the State Government of Bihar in response to the letter dated 19.10.2012 submitted by the applicant they have acted in accordance with R.B.E.No.153/85, (Annexure R/2), which circulated directions/guidelines of the Ministry of Home Affairs

(5)

with regard to verification of the claims of candidates belonging to the Scheduled Castes and Scheduled Tribes.

5. During arguments, both the counsel for the applicant as well as the respondents reiterated their earlier mentioned positions. Counsel for the applicant also produced a copy of the Bihar Gazette of 09.03.2011 which was taken on record as Annexure C/1 and drew attention to Page 2 of the same, in which it has been stated that the Anchal Adhikari notified by the State Government is competent to issue caste certificates and where an organisation other than the State Government requires such certificate to be issued by the Anumandal Padadhikari or District Officer, the certificate will only be countersigned by such officer. Counsel for the applicant also cites a judgment of the Patna High Court dated 21.07.1991 in the case of **Dr. Anwar Ashraf vs. State of Bihar and Ors** to argue that where the caste certificate submitted by the applicant was found good enough to allow him to sit for the competitive examination in question, it should not be rejected on the technicality of it not having been signed by the Anumandal Padadhikari or the District Officer especially where a certificate with the counter-signature/signature of this official was produced later on and the authenticity of the caste certificate produced earlier is not in doubt.

(6)

6. The material placed on record as well as the arguments of opposing counsel have been considered. What is undisputed in this case is that the applicant did not produce a caste certificate duly signed by the competent authority as specified in the relevant employment advertisement itself at the time of submission of his application and within the stipulated time limit for such submission. The question that essentially arises in this case is whether, in such a situation, subsequent submission of such supporting documents, i.e. the caste certificate or any other documents, can be allowed, on reconsideration, as a ground for the acceptance of such an application.

7. In **Tej Pal Singh & Ors. Vs. Govt. of NCT of Delhi** [120 (2005) DLT 117], the Delhi High Court has taken a view that candidates who belong to the SC and ST categories but could not file a certificate in proof of the same in time before the close of applications cannot be rejected only on account of late submission as the **"certificate issued by competent authority to this effect is only an affirmation of fact which is already in existence."** Again, in the case of **Ms. Pushpa vs. Government of NCT of Delhi & Others** which related to late submission of an OBC certificate, in its order dated 11.02.2009, the Delhi High Court has reiterated that provided such certificate reached the competent authority **"prior to their making provisional selection"**, then it should not be rejected on

(7)

account of late submission alone. In this case, the Delhi High Court does make this proviso based on the rationale that the competent authority in question which **“verifies and satisfies itself with authenticity of documents and eligibility as per recruitment rules”** does so **“while making provisional selection”**.

8. However, in the case of **T. Jayakumar v. A Gopu**, (2008) 9 SCC 403 at page 406, it has been held by the Apex Court that there is no law under which once a candidate is allowed participation in the selection process, the selection authority is precluded from examining whether his application was **“complete, in order, within time or otherwise acceptable”**, and that **“the principle of estoppel has no application in such a case”**; (para 10 of the judgment refers). *Inter alia*, the court has also observed, (para 11 of the same judgment refers), that where a completed application is submitted beyond time with supporting documents, even if considered complete and authentic, while this can be treated as **“part and parcel”** of an earlier incomplete application by departmental appellate authority, if there is one, rejection of the application lies beyond the scope of judicial review.

9. In this case, the RRB order of 06.03.2012, (Annexure A/10), issued on the applicant's representation and in compliance of this

(8)

Tribunal's orders in OA No. 95/2012 clearly states that the applicant's submission of a caste certificate duly signed/countersigned by competent authority after the last date for close of applications on 21.06.2010 does not render his candidature eligible. While the caste certificate in question was admittedly produced during the process of verification of documents, the RRB order at Annexure A/10 clarifies *inter alia* that only provisionally selected candidates are called for document verification. In other words, the call for verification of documents is a post provisional selection event and therefore, submission of the caste certificate at this stage, even an authentic one, cannot be covered under the terms of the Delhi High Court judgment in the case of Ms. Pushpa; (supra).

10. In the result, the inescapable conclusion that arises is that because the certificate submitted by the applicant at the post provisional selection stage during the process of verification of documents even if found to be authentic, was submitted beyond the time allowed for such submission in terms of the judgment of the Delhi High Court in the case of Ms. Pushpa, (supra), non-acceptance of this late submission by the respondent authority is not, as per the principle laid down by the Apex Court in the case of T. Jayakumar vs. A. Gopu, (supra), within the scope of judicial review. Consequently, this OA fails for want of merit and is dismissed.

(9)

11. There will be no order on costs.

(A.Mukhopadhaya)
Member (A)

(Suresh Kumar Monga)
Member (J)

/kdr/