

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

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Original Application No. 350/01858/2018

Date of order: This the 27th day of February, 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

Madhusudan Singh
Son of Bachchi Prasad Singh
Residing at Village – Murli
P.O. – Bhawanipur, Via – Naugachia
Dist – Bhagalpur, Bihar, Pin – 853204.

...Applicant

By Advocate: Mr. P.K. Roy

-Versus-

1. Union of India
Service through General Manager
Eastern Railway, N.S. Road
Kolkata – 700001.
2. Chief Personnel Officer
Eastern Railway, N.S. Road
Kolkata – 700001.
3. Assistant Personnel Officer (Rectt)
Railway Recruitment Cell, 56
Chittaranjan Avenue, Kolkata – 700012.
4. Dy. Chief Personnel Officer/
Rectt. Eastern Railway, 56
Chittaranjan Avenue, Kolkata – 700012.
5. Sr. Personal Officer (Rectt)
Railway Recruitment Cell
Eastern Railway, Kolkata – 700012.

...Respondents

By Advocate: Mr. A.K. Guha



ORDER (ORAL)MANJULA DAS, MEMBER (J):

This O.A. No. 350/01858/2018 has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

8.(a) An order directing the respondent authorities to take all possible measures to select the applicant in the post of Group "D" employee with the respondents organization, sorting out all the hindrances that came in the way of the applicant's selection, as qualified candidate and appoint the applicant in Group "D" Post with immediate effect.

An to pass such other or orders as this Learned Tribunal may deem fit and proper."

2. Mr. P.K. Roy, learned counsel appearing on behalf of the applicant submitted that in pursuance of the Employment Notification No. 0106 dated 25.09.2006 published in local newspaper, applicant applied for the post of Group "D" in the respondent organisation. Accordingly, call letter for appearing in the written examination was sent to the applicant with quoting Roll No. 11135546 to be held on 04.11.2007 and accordingly, he came out successful. Thereafter, he was directed to appear for Physical Efficiency Test where the applicant duly attended the physical efficiency test held on 03.06.2008. According to the learned counsel,



applicant also got successful in the said Physical Efficiency Test which was conducted by the Railway Recruitment Cell. After few months, the applicant received a call letter for Medical Examination to be held on 29.09.2008. He was also asked to deposit the prescribed Medical Examination fee of Rs. 10/- only where the applicant said fee to the concerned authority and the authority duly issued with the receipt and accordingly, applicant appeared in the Medical Examination as directed. However, vide impugned letter being No. EMP Notice No. 0106 (Group 'D') control No. 64248725 dated 02.03.2009, issued by APO (Recruitment), cancelled the candidature of the applicant on the ground of Mismatch of LTI with application form.

3. Mr. Roy vociferously submitted that the ground of rejection of the candidature of the applicant seemed to be absolutely incomprehensible to the applicant inasmuch as this type of anomaly could never been occurred. As advised by the authority vide impugned order dated 02.09.2009, applicant immediately made an appeal before the appropriate authority. However, no acknowledgement of receipt whatsoever of such appeal was provided to the applicant.

4. Being aggrieved with the impugned order dated 02.03.2009, applicant had filed O.A. No. 350/00808/2014 before this



Tribunal. This Tribunal vide order dated 15.09.2014 disposed of the said O.A. by directing the respondents to disposed of the representation made by the applicant within 8 weeks by passing a reasoned decision. In compliance with the order of this Tribunal dated 15.09.2014, the respondent authorities had passed the impugned speaking order dated 30.10.2014 wherein it was stated that the document and application of the applicant has been checked by the Chief Finger Print Expert and it is found that the applicant's Thumb Impression is mismatch with his original application and mismatch with the attendance sheet in written examination and therefore, his candidature was cancelled.

According to the learned counsel, said order was passed without giving any opportunity to the applicant for filing objection as well as hearing. Being aggrieved, the applicant filed another O.A. No. 875/2015, but as prayed by the learned counsel for the applicant, said O.A. was withdrawn on 20.09.2018 with liberty to file a fresh O.A. Hence the instant O.A.

5. We have heard the learned counsel for both the parties and perused all the documents relied upon. We have also perused the order dated 20.09.2018 passed by this Tribunal in O.A. No. 875 of 2015 where this Tribunal observed as follows:

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"3. Ld. Counsel for the applicant is hence permitted to withdraw the instant Original Application and to file a fresh O.A. after incorporating the requisite relief and with impleadment of necessary parties. Delay, if any, in this regard, will be waived.

4. Ld. Counsel for the respondents draws attention to the fact that this is a matter arising from mismatch of handwriting and, accordingly, will furnish their reply to the fresh Original Application, when filed, along with the Graphologists/forensic expert's report in this regard. Ld. Counsel for the applicant is also at liberty to submit such information as is made available to him in the context of mismatch of handwriting of the applicant."

6. Today, no such expert's report could have been produced by the learned counsel for the respondents Mr. A.K. Guha. However, learned counsel for the applicant Mr. P.K. Roy has produced a letter dated 06/11.12.2018 wherein it is stated that – "**No such case relating to LTI examination is received in this laboratory**".

7. In view of the above, without going into the merit of the case, it is considered that let justice be done by directing the respondents/railway authorities to send the matter for Left Thump Impression examination before the Central Forensic Science Laboratory, Directorate of Forensic Science Services, Ministry of Home Affairs, Govt. of India, 30, Gorachand Road, Kolkata – 700014 within a period of one month from the date of receipt copy of this order. On being received report, the Railway Authority shall pass



order accordingly. Thereafter, report of the Forensic Science ~~bermics~~ as well as the order to be passed by respondent authorities shall be communicated to the applicant forthwith.

8. Liberty is however, granted to the applicant to approach this Tribunal if he is aggrieved with the report and order of the Forensic Science.

9. With the above observations and directions, O.A. stands disposed of accordingly at the admission stage with no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)