



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

Original Application No. 350/01049/2014

Date of order: This the 26th day of February, 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

Sabita Debnath
Daughter of Dulal Debnath
Aged about 27 years, unemployed
Young girl, residing at C/O Indrajit Debnath
Narkeldanga East Canal Road
Kolkata – 700011.

Permanently residing at:-

Village – Madhya Parokata
P.O. – Uttar Parokata, P.S. – Samuktala
Dist – Jalpaiguri, Pin – 736202.

...Applicant

By Advocate: Mr. J.R. Das

-Versus-

1. Union of India
Service through the General Manager
Eastern Railway, Fairlie Place
Kolkata – 700001.
2. The Chief Personnel Officer
Administrative Railway Recruitment Cell
56, C.R. Avenue, Kolkata – 700012.
3. The Senior Personnel Officer/
Rectt., Railway Recruitment Cell
Eastern Railway, 56, C.R. Avenue
Kolkata – 700012.

4. The Deputy General Manager (G)
17, N.S. Road, Kolkata - 700001.

...Respondents

By Advocate: Mr. A.K. Guha

ORDER (ORAL)

MANJULA DAS, MEMBER (J):

This O.A. No. 350/01049/2014 has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- 8.(a) An order holding that the rejection of the candidature of the applicant is neither bonafide nor lawful.
- (b) An order quashing and/or setting aside the purported denial to consider the applicant's candidature for the post of Group - D in Eastern Railway, Kolkata as received by the applicant through RTI.
- (c) An order directing the respondents to reconsider the candidature of the applicant after granting opportunity to rectify the defects if any, considering the facts that the applicant even though made a genuine mistake but had approached honestly and sincerely and to direct the respondents to record her Bio-data with qualifications and further direct the respondents to incorporate the name of the applicant for Medical Test/Examination by amending and/or by publishing a separate memo and consider the case of the applicant in the interest of justice.



- (d) To direct the respondents to deal with and/or dispose of the appeal made by the applicant on different occasions.
- (e) To direct the respondents to allow the applicant to appear before the Medical Board for medical test/examinations.
- (f) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

2. Heard Mr. J. R. Das, learned counsel for the applicant and Mr. A.K. Guha, learned counsel for the respondents.

3. It was submitted by the learned counsel for the applicant that pursuant to the Employment Notice dated 14.12.2010, applicant duly submitted his application in the prescribed form. She was issued with call letter to appear for written examination. Applicant appeared in the written examination held on 06.05.2012 and came out successful. Thereafter, she was called for Physical Efficiency Test (PET in short). But unfortunately on appearing at the spot for said test, the applicant found all her certificates/testimonials as missing and the applicant filed a G.D. Entry at Local English Bazar Police Station at Maldah on 29.11.2012.

4. The ground for rejection of the candidature of the applicant as replied in through RTI dated 01.04.2014 that the applicant was called on 13.04.2013 for verification of documents in



the office of RRC-ER, wherein she came with the original documents and stated in writing (in Bengali) that actually no original documents had been lost in the train from herself rather she left all the documents at her residence while proceeding for PET. This act of her tantamount to suppress the fact and by giving false information she misled the Railway Administration as well as Police Authority by lodging above GDE No. 1572 dated 29.11.2012 to procure the entry if PET for her personal gain. Thus she has violated the instruction clearly given at 18.1 of Notification No. 0110 of 2010 and also Sl. No. 14 of the instructions for PET at back side of the call letter of PET. On the basis of above facts and reasons, this office is unable to consider her candidature for selection for the post of PB-I, GP-Rs. 1800/- as per extant rule and the terms and condition of the Notification No. 0110 of 2010.

5. We have carefully gone through the original records submitted by the learned counsel for the respondents Mr. A.K. Guha as ordered by this Tribunal on 25.02.2019 as well as pleadings as appeared at Annexure – 3 Cell to the O.A. that wherefrom it appears that the applicant had lodged GDE before the Officer-in-Charge, English Bazar, Malda on 29.11.2012 stating that while she was travelling from Alipurduar to Maldah, She lost a bag in the Down Teesta Torsa Train. The bag contained all the requisite papers in



connection to the Railway PET test due on 29.11.2012, that contained the Admit Card for written test in Railway also Admit Card, Marksheets, Testimonials, OBC Certificate etc. Thereafter, the Malda Police Station had registered her case as GDE No. 1572 dated 29.11.2012. However, all the original records have been ultimately found at her residence and immediately she reported Officer-in-Charge, Samuktala Police Station, Jalpaiguri on 11.02.2013 stating as follows:-

"I went to Malda to appear for Railway examination on 29.11.2012 where I found all my certificates (Madhyamik, Higher Secondary, OBC Certificate, Railway Call letter etc.) as missing and I made one G.D. Entry at Malda English Bazar P.S. and I appeared for the examination on showing the said G.D. Entry. However, on returning home, I have found all my above documents in fact at my residence itself."

6. According to the learned counsel for the applicant, Officer In-charge of Samuktala Police Station did not intimate to the Concerned In-charge as well as to the concerned authority. However, learned counsel appearing on behalf of the respondents submitted that in fact the applicant did not intimate that she found all the original records in her residence which was intimated to the concerned Police Authority.



7. From the perusal of the Legal Notice of Advocate written to the Sr. Personnel Officer/Recruitment, Railway Recruitment Cell, Eastern Railway dated 22.04.2013, it appears that the applicant through her advocate intimated to the department in details by stating that the applicant lodged F.I.R. to the English Bazar (Malda) Police Station regarding loss of File in the journey Train on 28.11.2012 and the Malda Police Station registered her case being GDE No. 1572 dated 29.11.2012 and after getting the file, the applicant further informed to the O.C., Jalpaiguri P.S. under G.D. No. 398 dated 11.02.2013. It also reveals that as per office letter No. RRC/ER/Exam (0110) Misc./2010 dated 26.03.2013 issued by the Sr. Personnel Officer/Recrtt, RRC, Kolkata, the applicant attended before the concerned officer with all required documents for verification but the concerned officer refused to verify the documents and for the same, no reason has been disclosed to the applicant till date. Accordingly, the applicant sent the attested copies of the required documents to take decision and convey the said decision to the applicant with a forth night from the date of receipt of the said Legal Notice.

According to the learned counsel for the applicant, till now, no such correspondence has been forwarded by the respondents so as to enable to appear before the authority for document verification.



8. After careful exploration of the original records, it appears that the department, ^{was} aware that the applicant lodge FIR under GDE No. 1572 dated 29.11.2012 and as the original certificates have not been produced by the applicant, accordingly, documents verification could not be done. The said FIR also in the record of the respondent authorities.

9. Now the issue before us as to whether the applicant is guilty as provided under 18.1(V) of the instructions/conditions of the Railway Recruitment Notice No. 0110 where the said conditions says that - "Making statements which are incorrect or false or suppressing material information".

10. From the above documents as discussed in the foregoing paragraphs i.e. original records and Annexures to the O.A. which have not been disputed, it appears that the applicant on the previous date of the interview i.e. PET, she lodged an FIR before the English Bazar Police Station on 28.11.2012 due to loss of her bag where all related documents were there. However, subsequently, when she got her bag along with all the relevant original documents at her residence, then she immediately intimated to the Jalpaiguri Police Station which is her home town. Accordingly, applicant came to the office for presentation of the original documents, however,

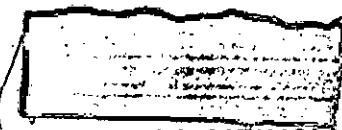


the authority refused. Thereafter, she made Legal Notice through her Advocate on 22.04.2013 intimating the situations in details she came across in the Railways and filing of FIR as well as report to the Jalpaiguri Police Station. Accordingly, Advocate of the applicant requested the authority to accept all the documents. However, the authority rejected her prayer on the ground that the applicant suppressed material information without having any document verification.

11. In the entire episode, it is established through the papers and documents including the Original documents submitted by the learned counsel for the respondents Mr. A.K. Guha that there is a bonafide mistake on the part of the applicant and if so, in our view, that should be corrected as she deserves to be corrected all the submitted original documents. Accordingly, in the interest of justice, we direct the applicant to submit the original documents before the appropriate authority within a period of one months from the date of receipt copy of this order where the respondent authority who is the competent one shall accept and verify for consideration in the proceedings of the recruitment as applied by the applicant and thereafter, pass necessary order accordingly.



12. With the above observations and directions, O.A. stands disposed of accordingly. There shall be no order as to costs.



(NEKKHOMANG NEIHSIAL)
MEMBER (A)



(MANJULA DAS)
MEMBER (J)