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**CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.**

**ORIGINAL APPLICATION NO. 295/2016**

Date Of Decision:- 11 March 2019

**CORAM: R. VIJAYKUMAR, MEMBER (A).  
R.N. SINGH, MEMBER (J).**

Tejashree V Patil,  
Working as Quasi Administrative Staff,  
Central Railway Employees Consumers Co-op.  
Society Limited, CSTM Mumbai- 400 001.  
4, Rameshwar CHS Ltd.,  
Premnagar Complex,  
Kharegoan, Kalwa Thane- 400 605.

....*Applicant.*

**(*Applicant by Advocate Ms. Priyanka Mehndiratta*)**

**Versus**

1. Union of India,  
Through The General Manager,  
CSTM, Mumbai- 400 001.
2. The Divisional Railway Manager (P),  
Mumbai CSTM, Mumbai- 400 001.
3. The Chief Personnel Officer (Ind. Relations),  
Central Railway, CSTM, Mumbai- 400 001.

....*Respondents.*

**(*Respondents by Advocate Shri V S Masurkar*)**

**Reserved On : 15.02.2019.**

**Pronounced on: 11.03.2019**

**ORDER**

**PER:- R. VIJAYKUMAR, MEMBER (A).**

This application has been filed on 04.03.2016 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"i) This Hon'ble Court may graciously be pleased to call for the records of the case from Respondents and after examining the same, quash and set aside the impugned orders dated 23.09.2015 (A-1), 18.02.2014 (A-2) and 12.06.2012 (A-3) with consequential benefits.

ii) This Hon'ble Court may further be pleased to hold and declare that the Applicant is entitled to be absorbed with Railways as Group 'D' category w.e.f. 2006, for which she is legally entitled along with consequential benefits.

iii) Costs of the petition be provided for.

iv) Any other and further relief as this Hon'ble Tribunal deems fit in the circumstances of the case be granted."

2. The Railway Board framed a Scheme in their letter dt. 30.05.2000 for absorbing staff employed with the Mumbai CST, Central Railway Employees' Consumers Cooperative Society Ltd., Mumbai and set a cut-off date for employment with the Society on 10.06.1997, a three-year period of prior employment and that, on the date of orders, they were still on roll. These orders were modified in Board letter dt. 03.05.2006 waiving the three-year' continuous service condition. The applicant states that the

Society forwarded the names of twelve staff members for this purpose (Annexure A-III) certifying that they had been engaged prior to 10.06.1997 and had completed three years service and were still on roll on date of letter of 03.07.20016 and also referred to the said Railway Board's Letter E(NG) II/99/RR-1/15 Vol.IV dt. 03.05.2006 (RBE No. 56/2006). The applicant was at Sl No. 11 in the twelve persons listed with date of birth as 05.09.1966 and date of engagement as 29.01.1997 and as SSC pass qualified. The Secretary of the Society was advised by respondents in letter No. HPB/WEL/Quasi/06/Correspondence dt. 12.05.2009 (Annexure A-VI) that the nine persons listed were not considered since their appointments were after the cut-off date of 10.06.1997. There was no mention of three persons in this letter namely Sl No. 1 Mrs. Dipali D Raut, Sl No. 8 Mr. Bhagwan K. Saikhede and Sl. No. 11 Mrs. Tejshree V Patil (applicant). Thereafter, it appears that on a reference received from the Central

Railway Mazdoor Sangh(CRMS), Dadar, the Sangh was advised of the status of absorption proposals placed before the PNM in Agenda No. 040/2012(Annexure A-III) which comprised fifteen persons including the applicant and also Shri Bhagwan Saikhede. At this stage, for both these persons, the observations of the Three JAG Member Committee was noted and the fact that the applicant had not produced an OBC Certificate in the prescribed format was informed. Following this, the respondents authorized their Welfare Inspector in letter No. HPB/WEL/Quasi/CRMS/PNM dt. 28.08.2012(Annexure A-8) to verify her Caste Certificate. They also wrote to the Liquidator of the Cooperative Society in letter No. BB/P/WEL/2013 dt. 04.02.2013 to produce documents necessary for considering these two persons for absorption namely, Smt. Tejashree V. Patil and Shri Bhagwan Saikhede. It appears that a meeting was held thereafter on 04.02.2013. A further letter was sent on 10.06.2013 again requesting the original

records which had been returned earlier for placing before the Officers' Committee for its meeting on 20.06.2013 in regard to the applicant and Shri Bhagwan Saikhede. On this basis, they appeared to have sent a letter on 12.06.2013 to the Mazdoor Sangh detailing the position of 24 cases in their letter No.

HPB/W/88/CRMS/PNM/040/12 dt. 18.02.2014

(Annexure A-2). This list of 24 persons included all the eleven of the original twelve names sent by the Society and in respect of the two, including the applicant, it was noted for each that "the Scrutiny Committee has established that the individual was not on roll as on 10.06.1997". With regard to the date of appointment, they have noted that the Pass Register shows dates as 01.06.2003/29.01.1997 written in different ink and different hand writing. Notably, excluding the case of Mrs. Deepali D Raut (Sl.No. 1 in Society List), all the others were rejected as subsequent appointees and therefore, not eligible for absorption. The applicant then filed a representation on

10.07.2015 (Annexure A-11) claiming that she had nothing to do with the Muster Roll and any issues relating to hand writing in the Pass Register could not be held against her.

By reply, respondents advised her in letter No. No. CR/P-HQ/466/7/8 dt. 23.09.2015 as follows:

*"Sub:- Absorption into Railway service.*

*Ref:- Your representation dated 10.01.2015.*

Your representation dated 10/07/2015 regarding rejection of your claim for absorption in the Railways in a Group 'D' post has been examined in detail with records. This is to inform that your case was comprehensively examined by a 3 Junior Administrative Grade Committee nominated by the then GM. The Committee did, not recommend your absorption for the following reasons:-

1. **Musters:** The musters from May 1996 to April 1997, May 1997 to April 1998, May 1998 to April 1999, May 1999 to April 2001 & May 2001 to June 2003 indicates 'A' & 'P' only. Although the quality of registers are old, the handwriting indicates that all 'P' & 'A' are marked in a day. Also, in these registers manager's signature randomly appears of the same ink. From April 1998 to June 1998, there is neither 'P' nor 'A' marked against remark column ML (Maternity Leave). Further, in the muster from July 2003 to Oct 2003, Nov, 2003 to April 2008 & May 2008 to Jan 2009, your signature appears for the first time in the month of July, 2003.)

2. **Payment Registers:-** Your name appears for the first time in June 2003, although same payment for the earlier period appears through payment voucher, wherein the quality of payment vouchers are old but some revenue stamp affixed & signature made appears fresh.

3. **Provident Fund Slip:** Original PF slips submitted by you received from the Regional Provident Fund, Bandra is available from 2001-2002 to 2009-2010(except 2005-06) does not support your date of appointment as 29/1/1997.

4. **Pass Register:-** The pass register maintained by BB division where the pass records of quasi staff are maintained by them reveals your date of appointment as 1.6.2003/29.1.1997, the date 29.1.1997 is written in different ink & by a different hand.

The Committee concluded as under:-

From the muster no.7, her date of appointment in question appears to be given from 1<sup>st</sup> July 2003, as she has signed. The musters from May 1996 to June 2003, seems to be fabricated & Committee is not considering these muster authentic for the reasons shown above.

Payment vouchers cannot be considered authentic by the Committee for the reasons indicated above.

PF slips available from 2001-02 does not support her date of appointment as 29/1/1997.

Also, Pass register reveals date of appointment as 01.06.2003/29.01.1997, the date 29.01.1997 is written later on in different ink.

Thus, date of appointment of Smt. Tejashree V. Patil is not clear and it appears doubtful that she was on roll of Central Railway Consumer Co-operative Society, Mumbai as on the cut-off date.

Of the above, non contribution of PF with the Regional PF Office is the most strong reason for rejection of your claim.

It is relevant to inform that absorption of the staff of co-operative societies into Railway Service is not a vested right of the staff of Societies. Only on being fully satisfied that the applicant has been a genuine employee on the rolls of the Society as on 10/06/1997,

the Administration will take steps for absorption which is subject to certain conditions like there being no Casual Labourers/substitutes awaiting for absorption and the number of society staff to be absorbed to be approved by Railway Board. When there are multiple and serious doubts about the genuineness of a claim and a three member Senior Committee recommends rejection of the claim on the basis of such doubts, the Railway Administration has to reject such claim.

This issues with the approval of the Competent Authority."

3. In this application, the main ground stated are that the impugned orders have been passed without application of mind, that the reference to registers cannot be held against her because she was not the custodian for any of these accounts books, funds, records & registers. Further, she questions the bona fides of the Scrutiny Committee which first gave the reason that her Caste Certificate was not in order and later found other reasons. She has also questioned the marking of P(present) and A(absent) in the Muster Register in a single date with the same pen. On her absence from April 1998 to June 1998, she claims that her daughter was born on 18.04.1998 and she was allowed by the office

to come late and go early. She questions the manner in which the respondents have appraised the signatures being fresh on the old vouchers. On the specific aspect of the two dates of appointment, of 01.06.2003/29.01.1997 being written in different ink and different hand writing, she alleges that the respondents had not investigated properly and had arrived at vague conclusions.

4. The respondents argued that the applicant's absorption was considered way back in 2006 and her present application on 04.03.2016 suffers from serious issues of limitation which should be the basis for rejection of the stale claim. They state that during the initial processing of her case, they found that she was over-aged on the alleged date of appointment, especially since her OBC Certificate was not acceptable as it was obtained by her in-laws along with her husband's name. When she submitted a fresh certificate, her case was properly considered. They also state that only

illiterate persons used to note P/A for attendance while educated persons such as the applicants who had passed SSC should have signed. Further, her signature appears in the Muster for the first time in July 2003 which corresponds to her appointment from 01.07.2003. The Pass Register also shows the date of appointment as 01.06.2003/29.01.1997, with the second date written later in a different ink. There is also no question of bias on the part of the Committee and which has also not been alleged or proven by the applicant. They assert that the Three-Member JAG Officers' Committee examined the issue from multiple aspects and correctly decided the matter. They also considered the date of engagement, absence of PF number before 10.06.1997 etc., for deciding this issue. In this regard, they also mention that the issue was raised by the CRMS in Permanent Negotiating Machinery (PNM) (meeting Agenda Item No. 040/2012 (Annexure A-3) and later by the National Railway Mazdoor Union in Item No. 308 and both Unions could not support the

claim of the applicant because of the manipulation. They also assert that it was in the interest of the applicant to mark her attendance every day even if she came late and she cannot raise such pleas at a subsequent point in time.

5. The applicant has filed a rejoinder and has admitted that her case was rejected on 03.07.2006 for want of Caste Certificate which would have given her age relaxation. She has reiterated all the arguments made in the OA. The respondents have filed a reply to this rejoinder reiterating their previous submissions.

6. We have heard the learned counsel for the applicant and learned counsel for the respondents and carefully considered the facts and circumstances, law points and rival contentions in the case.

7. On the issue of limitation, it is apparent that, by her own admission, the applicant was aware of the rejection of her case on 03.07.2006 for want of a proper Caste Certificate that could have given her age

relaxation. The process of verification of Caste Certificate went on subsequently and when the respondents sent a letter dt. 12.05.2009 (Annexure A-6) to the Cooperative Society, it cannot be denied by the applicant that she was quite aware of the correspondence in this matter although her name was not part of this list. On 12.07.2012, she has written a letter (Annexure A-7) to the respondents referring to the Mazdoor Sangh meeting (Annexure A-3) and re-submitted the Caste Certificate. This was considered by the respondents in a Committee which met in June 2013 and its decision was conveyed to the Mazdoor Sangh on 12.06.2013 with more detailed reason communicated on 18.02.2014. The respondents have argued that since applicant was moving through the Sangh and she was aware of this particular agenda item, she cannot deny knowledge of these orders. She also acknowledges this letter in her representation dt. 10.07.2015 questioning the reasons. To this representation, the

respondents replied on 23.09.2015. While the arguments of the respondents on the aspect of limitation has considerable weight, the fact that all the objections were not communicated or informed to her previous to the letter dt. 18.02.2014 (Annexure A-2) and to which she filed a delayed representation in 2015, it cannot be said that the applicant failed to agitate the matter with diligence. Therefore, considering that the delay from date of full reply from the respondents to the date of filing this application is within the one year limitation period, the objection on limitation cannot be sustained.

8. A striking piece of evidence in the case is that the Society furnished a list of twelve persons and excluding the first person who was a 7<sup>th</sup> Standard passed employee engaged apparently from 01.06.1989, all the rest find place in the Muster Register of May, 1997. All these persons were rejected as communicated in Annexure A-6 for the same reasons that their dates of appointment were after 10.06.1997 or that no past record was

available. This communication excluded the applicant and one Shri Bhagwan Saikhede and both these cases appeared to have been considered while sending a communication to the Mazdoor Sangh on 12.06.2012 (Annexure A-3) on the aspect of improper OBC Certificate. After such a certificate was produced, in the communication dt. 18.02.2014 (Annexure A2), both these persons were noted as not on roll on 10.06.1997. In the case of the applicant, multiple dates with different ink and different hand writing was noted while in the other case of Shri Bhagwan Saikhede, the Pass Register disclosed that he commenced employment on 01.01.1999. Therefore, the entire list in the Muster Register for May, 1997 was rejected by the respondents and raises serious questions about its credibility and the credibility of this list of twelve persons recommended by the Society.

9. The proceedings of the Scrutiny Committee and the entire file was produced by the respondents for perusal by the Tribunal and we have again gone through the material

on record. It is apparent that a careful examination has been made by the respondents of the applicant's case as well as of all the other cases. The respondents have taken care to examine the salary register, pay-sheets, pass issue details and various other pieces of evidence for arriving at their conclusion and it cannot be said that their examination has been negligent or without proper application of mind. In regard to the two dates of appointment mentioned in different ink and in different hand writing, in the normal course, the prior date would be mentioned first and the later date would be mentioned afterwards in case a person joined, took a break and re-joined. In the present case, the later date is shown first and the prior date shown afterwards. That itself lends suspicion to the record. The respondents have studied her PF slips also for this purpose and it does not support her claim for having been appointed on 29.01.1997. Therefore, from multiple aspects, the respondents appear to have

examined her case and found it difficult to reconcile the evidence with her claims and have naturally come to the conclusion that she does not deserve to be extended the benefit of a scheme formulated for persons who fitted squarely and closely with the conditions required in the Scheme as modified in 2003 and who deserved such a benefit as decided by the Railway Board.

10. In these circumstances, it is apparent that the applicant's arguments are devoid of merits and the OA is accordingly dismissed but without any order as to costs.

✓  
(R.N. Singh)  
Member (J)

✓  
(R. Vijaykumar)  
Member (A)

Ram.