

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00493/14

Reserved on: 17.01.2019
pronounced on: 21.01.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Shri Rajnish Kumar, aged about 38 years, son of Shri Suresh Singh, resident of -44, Shri Krishna Nagar, PO- Kidwaipuri, PS- Budha Colony, District- Patna.

..... Applicant.

- By Advocate(s): - Mr. S.K. Bariar
Mr. K.K. Singh

-Versus-

1. The Union of India through the Steel Authority of India Limited, a Government Company within the meaning of Section 617 of the Company represented through its Deputy Manager (Law), Bokaro Steel Plant, Shri Rajesh Kumar Son of Shri B.B. Sinha, having its Office at -10, Camac Street, PO- Camac Street, Police Station Park Street, District- Kolkata (West Bengal).
2. Chairman/Managing Director, Steel Authority of India Limited, Ispat Bhawan, Lodhi Road, New Delhi.
3. Regional Director, Steel Authority of India Ltd., Bokaro Steel Plant, Bokaro Steel City, Jharkhand-827001.
4. The General Manager, M&M Steel Authority of India Ltd., Bokaro Steel Plant, Bokaro Steel City, Bokaro Steel City, Jharkhand-827001.
5. Chairman Enquiry Committee, Steel Authority of India Ltd., Bokaro Steel City, Jharkhand-827001.
6. DGM (M&M) & I/c BSL Office, Delhi Steel Authority of India Limited, Ispat Bhawan, Lodhi Road, New Delhi.
7. Steel Authority of India Limited, Ispat Bhawan, Lodhi Road, New Delhi.
8. Steel Authority of India Limited, Bokaro Steel Plant, Ispat Bhawan, Bokaro Steel City-827001.
9. General Manager (Project-M&M, Elec. Civil), Steel Authority of India Ltd., Bokaro Steel Plant, Ispat Bhawan, Bokaro Steel City-827001.
10. AGM (Personnel-HRIS), Chairman, Enquiry Committee, Bokaro Steel Plant, Bokaro Steel City, Bokaro, Jharkhand.
11. Director, CBVI, Central Bureau of Investigation, New Delhi.
12. Bokaro Steel Plant, Steel Authority of India Ltd., Ispat Bhawan, Bokaro Steel City-827001.
13. Central Bureau of Investigation, Anti Corruption Bureau (A.C.B.), Dhanbad.

..... Respondents.

- By Advocate(s): - Mr. (Dr.) Ratan Kumar

ORDER

Per Dinesh Sharma, A.M.:- The facts of the case , in brief, are as follows:

The applicant was dismissed from service, while working as Airport Liaison Assistant of Bokaro Steel Plant (BSL), (hereinafter referred to as “BSL” or “the company”) in New Delhi. This was following an inquiry on charges of fraud, corrupt practices and conduct bringing disrepute to the company. The Statement of Allegations attached to these charges alleged abetment or collusion by the applicant in getting himself appointed to the job for which normal procedure of proper advertisement was not followed and only a classified advertisement in Statesman New Delhi was published giving 10 days’ time instead of four weeks. The application of the applicant quoted the date of advertisement wrongly (15.3.07, instead of 16.3.07) and there was no seal of the postal department on the envelope carrying his application. An enquiry was conducted after issue of chargesheet and statement of allegations. The applicant denied all these charges. The Inquiry Committee examined the relevant records, witnesses, including those of the defence. It found recruitment process through which the applicant was appointed as irregular and unlawful. Being a beneficiary of such process, the inquiry held the applicant guilty of charges levelled against him. The appeal of the applicant was also dismissed by the appellate authority of the company through a reasoned order dated 27.3.14. The applicant has challenged this dismissal before this Tribunal in this OA.

2. The respondents have opposed the grant of relief claimed by the applicant. According to them, following public complaints to the Central Vigilance Commission, it was found that recruitments were made without following the laid out procedure. They have issued chargesheet against the applicant and have

dismissed him after proper inquiry in which he was given sufficient opportunity to defend himself. The applicant's appeal was also duly examined by the Appellate authority, who, after due application of mind, was not inclined to interfere with the order of the Disciplinary Authority. They have Departmentally penalized appropriately other officers responsible for not following the procedure of recruitment in this matter. The respondents have also quoted Rulings of the Hon'ble Supreme Court in **State of MP and Ors. Vs Lalit Kumar Verma, Secretary State of Karnataka Vs. Uma Devi, Satya Prakash & Ors Vs. State of Bihar and Suptd. of Post Offices. Vs. R. VAlasina Babu**. These are to support their contention that an illegal or backdoor selection process does not confer any right to an appointee under such process to continue in such employment.

3. The applicant, in his rejoinder, has reiterated his case that he cannot be punished with dismissal for what could be a typographical error (wrong mentioning of date of advertisement in his application) or for the absence of Postal Department of seal on the cover. He alleges, "there is no need for any stamp of the Post Office on envelop as employees of the "The Statement" themselves had to collect the letter from Post Box as the said Post Box of "The Statement" itself. He has also mentioned that, for the same post, the Employment Exchange had sponsored 11 candidates and 14 other candidates, besides him were called for interview. There is no proof of fraud against him and the punishment of dismissal for the "typing error" is not commensurate with the gravity of the charge against him.

4. We have gone through the pleadings and heard the learned counsels of the parties. The crux of the matter is that while the applicant feels he has been dismissed for a mere typing error and a missing seal on the envelope, the respondents see him as a likely abettor and certain beneficiary of a bigger, more

serious, crime of illegal recruitment. Looking at all the facts, which are not much in dispute, it is clear that the recruitment was done giving lesser time for response than normal. It is also a fact that by printing it in the classified section, without any proper headings, it reportedly got much lesser response than what could have been expected (as only 4 persons allegedly responded to it even though a large number could have fulfilled the required qualifications). It is also a revealed fact that in this recruitment, none of the 11 persons sponsored by the Employment exchange was selected while 2 out of the only four who reportedly applied against the widely published newspaper publication were given the job. All these are sufficient to prove irregularity in the recruitment process and clearly smack of this being a shortcut process in which fair chance was denied to equally or more qualified persons at large.

5. After finding this, the only thing that needs to be checked is whether the applicant can, in any way, completely distance himself from this process and given a benefit of doubt of his being a totally unaware and innocent victim. The facts of this case, as brought on the record and examined during the inquiry, show otherwise. While the mistake in the mentioning of date of advertisement can certainly be ignored as a likely typographical error, there is no sufficient explanation for the lack of seal of postal department. The respondent has nowhere mentioned that he himself put the envelope in the Box (after finding it out wherever it was kept, in a nearby post office or in the office of the Newspaper). He has only mentioned that the Newspaper staff itself collects the letters received in the Post Box, but this does not explain how the envelope reached this box, if it was sent through post. It is not correct to assume that the postal department forgot to

put the seal on this envelope while it moved it from wherever it was received to the place where the post box of the Statesman was kept.

6. Though not mentioned anywhere in the inquiry, we notice another fact in the records produced before us that the bio data attached with the application of the applicant (Annexure 2A) shows his place in Patna on 17.3.07. That he could see an advertisement (printed in the Delhi edition of the Statesman on 15.3.07) rush to Delhi to make his application reach (without any postal mark) in time, and his happening to be one of only 4 persons who could respond to this advertisement, leaves us in no doubt about his complicity with the faulty recruitment process.

7. In the absence of any procedural error in the process of enquiry, punishment and appeal, in view of the fact that due opportunity was given to the applicant to defend his case at every stage, looking at the factual position described in paragraphs above and in the light of the judicial pronouncements of the Supreme court quoted by the respondents (cited in para 2 above), we find no reason to accept the prayer of the applicant. The OA is, therefore, dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member