

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.203/01131/2017

Bilaspur, this Wednesday, the 09th day of January, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Abdul Aleem, S/o Shri Abdul Rauf, aged 30 years, unemployed,
R/o In front of Railway Station, Ward No.1, BELHA, District :
Bilaspur (CG) **-Applicant**

(By Advocate – Shri B.P. Rao)

V e r s u s

1. Union of India through the General Manager, S.E.C. Railway, Bilaspur Zone, General Manager's Office, Bilaspur – 495004 (CG).

2. The Chairman, Railway Recruitment Cell, S.E.C. Railway, R.T.S. Colony, Bilaspur – 495004 (CG).

3. The Chief Personnel Officer, S.E.C. Railway, Headquarters, Bilaspur – 495004 (CG) **-Respondents**

(By Advocate – Shri Vivek Verma)

(Date of reserving order : 07.01.2019)

ORDER

By Ramesh Singh Thakur, JM.

This Original Application has been filed by the applicant against the communication dated 05.09.2013 (Annexure A-6), whereby it has been informed to the applicant that his

application for Group-D post, in terms of the Employment Notification No. SECR/02/2010, has been rejected.

2. The applicant has, therefore, sought for the following reliefs:

“8.1 That, the Hon’ble Tribunal be pleased to call for records of Applicant’s case from the possession of the Respondents for its kind perusal and to decide the grievance of the poor Applicant.

8.2 That, Hon’ble Tribunal be pleased to quash and set aside the Respondent’s letter dated 5.9.2013 (Annexure A-6) in the interest of justice, and to direct the Respondents to allow the Applicant to participate in subsequent stages of the said Selection/Recruitment process.”

3. The brief facts of the case are that the Railway Recruitment Cell, Bilaspur vide Employment Notification No. SECR/02/2010 (Annexure A-1), invited applications for filling up 5798 Group-D posts. The applicant on fulfilling the eligibility criteria and other terms and condition, submitted his candidature for the aforesaid post (Annexure A-2). Thereafter, he was issued a call letter (Annexure A-3) for participating in the written examination, which was scheduled to be held on 03.06.2012. The applicant was awarded 64.13% percentage of marks in the written examination. The case of the applicant is that though he was declared successful in the written

examination, however, he was not called for the Physical Efficiency Test.

4. The applicant submitted an application under the Right to Information Act, to which it was informed to the applicant vide letter dated 5.9.2013 (Annexure A-6) that as he had submitted his application form in two pages, against one page, as required under Employment Notification, therefore, his application form has been rejected and he was not called for Physical Efficiency Test.

5. The applicant has challenged the action of the respondents on the ground that the call letter has been issued to him after scrutinizing his application and he was permitted to appear in the written examination. As per Annexure A-1, it is not prohibited to submit application in two pages. Therefore, rejection of his application on the ground of application in two pages, is illegal and untenable. Secondly, the RRC, Bilaspur is bound by Railway Rules, while issuing Employment Notification. RBE Nos.230/2001, 178/2004 & RBE No.121/2005, prescribes guidelines for recruitment of Group-D categories of staff through RRB. In these circulars, there is nowhere mentioned that if the application form is submitted in

more than one page then it will be rejected. The another ground taken by the applicant is that the para 3.1 of the notification, which stipulates submission of application on a single sheet, is not in conformity with any Railway Board Circulars and candidature of the applicant cannot be rejected at the middle stage of the recruitment process.

6. The respondents have filed their reply and have raised the preliminary objection regarding the maintainability of the O.A on the ground of delay. It has been submitted that vide communication dated 05.09.2013, it has been intimated to the applicant about rejection of his application, whereas the instant Original Application has been filed on 30.10.2017, i.e after more than four years of information provided under RTI. Therefore, the instant O.A is not maintainable and is liable to be dismissed on the ground of delay and laches. They have relied upon the judgment of Hon'ble Apex Court in the case of Secretary to Government of India vs. Shivram Mahadul Gaikwad, 1995 Suppl. SCC 231 and Ramesh Chand Sharma vs. Udham Singh Kamal, 2000 (1) ATJ 178 and have stated that before entering into the merits of the case, the question of limitation should be decided first.

7. It has been further submitted that the applicant submitted his application in two pages instead of one page, in contravention of condition 3.1 of the advertisement. A notification for filling up 5798 vacancies in erstwhile Group 'D' was issued by Railway Recruitment Cell/South East Central Railway vide Employment Notification No.SECR/02/2010 dated 15.12.2010, wherein various terms and conditions were stipulated in the said notification relating to age, requisite qualifications, mode of application etc. Since, the applications of candidates were huge in number, therefore, it was not possible for Railway Recruitment Cell to carryout the scrutiny at initial state. However, at later stage, the scrutiny of applications and enclosures of candidates was done before short listing the candidates for Physical Efficiency Test. As the applicant submitted his application in two pages instead of one page, the same was rejected, as per condition No.3.1 of the advertisement.

8. We have heard the learned counsel for the parties and gone through the pleadings and documents available on record.

9. The main objection raised by the respondents is regarding delay in filing the Original Application as the O.A has been

filed beyond the limitation prescribed under Section 21 of the Administrative Tribunals Act.

10. Section 21 of the Administrative Tribunals Act, 1985 (for short the ‘Act’) deals with limitation for filing O.A. before this Tribunal, which reads as under:-

“21. Limitation.- (1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

11. Perusal of the aforesaid section makes it clear that under the Act, the limitation has been prescribed for filing O.A. before this Tribunal as one year from the date of cause of action. The same can be extended by another six months from the date of filing of appeal if the same has not been decided. The Act further provides that if the application is not filed within time as stipulated in Section 21 of the Act, then the applicant has to move a Misc. Application for condonation of delay by explaining each day in not filing the Original Application within the limitation.

12. In the instant case the cause of action arose in favour of the applicant, when he was communicated with the letter dated 05.09.2013 (Annexure A-6) about rejection of his application.

However, he kept mum since 2013 and has filed this Original Application after a lapse of four years on 22.12.2017. Though MA No.203/00979/2017 has been filed by the applicant for condonation of delay, however, there is no such explanation regarding the inordinate delay of four years in filing the O.A. Thus, we find that the instant O.A is not maintainable, as it has been filed beyond the limitation period prescribed under Section 21 of the Act.

13. In addition to question of limitation in filing the O.A, we find that the application of the applicant was rejected for non compliance of the conditions stipulated in Para 3.1 of the notification, which reads as under:

“3.1 Candidates should submit the applications in the format annexed at Annexure – I to this Notification. The application should be on good quality A-4 size bond paper (80 GSM) using one side only. News paper cuttings should not be used as applications.

Candidates should ensure that application on a single sheet conforming to the above specifications. The candidates can also download the application format from the web site: <http://www.secr.indianrailways.gov.in>. Candidates using printed application form from any other source should ensure that it conforms to the prescribed format, otherwise the application is liable to be rejected.”

Thus, it is clear that the applicant has not complied with the conditions laid down in Para 3.1 of the notification and the

respondents were well within their right to rejected his candidature at any stage of recruitment process.

14. The respondents have also relied upon the judgment of Hon'ble High Court of Madras in Writ Petition No.32383 of 2005 and other connected matters, decided on 12.06.2006 (**Dr. M. Vennila vs. Tamil Nadu Public Service Commission and another**), wherein the Hon'ble High Court has held that strict adherence to the terms and conditions is paramount consideration and the same cannot be relaxed unless such power is specifically provided to a named authority by the use of clear language.

15. It has been further brought out to our notice that the issue involved in this O.A has already been considered and decided by this Tribunal in Original Applications Nos.203/00267/2014 and 203/00268/2014 vide orders dated 11.02.2015 (**Yogesh Siriah and Shailendra Singh vs. Union of India & Anr.**). The relevant Para 5 of the order, reads as under:

“5. It is an admitted fact that the Employment Notification dated 15.12.2010 specifically prescribed that candidates should ensure that application for employment should be submitted on a single sheet. Since the applicants submitted their applications in more than one sheet it was in variation to the instructions contained in the employment notification. After the conduct of the

written examinations, the respondents vide their order dated 28.08.2012 (Annexure A-4) declared the result of provisionally qualified candidates for Physical Efficiency Test, wherein in para 2 they have specifically mentioned that “the result is purely provisional and subject to final verification of candidature eligibility application form and documents etc. inadvertent calling of an ineligible candidate renders no claim for appointment”. Therefore, when the applications were checked it was found that the applications submitted by the applicants were not in conformity with the provision of the Employment Notification dated 15.12.2010. In this view of the matter, we do not find any substance in the contention of the learned counsel for the applicants that if the issue of submission of applications, in more than one sheet, was so relevant for conduct of this selection, then their applications should have been rejected in the first stage itself, particularly when the learned counsel for the respondents has specifically submitted during the course of arguments that since very large number of applications were received for this selection, at the time of issuance of call letters for written examinations, strict scrutiny of applications was not possible, and it is only after the result of written test proper scrutiny of application forms for successful candidates was done.

16. Since the facts of the present case are identical to that of **Yogesh Siriah** (supra), therefore, we find no merit in the instant Original Application.

17. In the result, the O.A is dismissed as barred by limitation as also devoid of any merits. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-