

**Central Administrative Tribunal
Principal Bench**

OA No.2200/2016
MA No.773/2017

Orders Reserved on 01.04.2019

Pronounced on: 05.04.2019

Hon'ble Mr. S.N. Terdal, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)

Dinesh Kumar Gurjar, Aged 24 years,
S/o Sh. Hans Raj,
R/o Vill. Gahanoli,
Post Koyala,
Tesh. Bamanws,
Distt. Sawai Modhopur (Raj.)

-Applicant

(By Advocate: Shri Yogesh Sharma)

-Versus-

Union of India : Through

1. Union of India through:
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chairman,
Railway Recruitment Cell,
Lajpat Nagar-I,
New Delhi-24.

(By Advocate: Shri Satpal Singh)

O R D E R

Hon'ble Mr. Pradeep Kumar, Member (A):

The respondent No.2, Northern Railway, had issued a recruitment notice for 5679 Group 'D' posts in the pay scale of Rs.5200-20200+GP Rs.1800/- on 30.12.2013. The

applicant had applied against this vacancy notice and was allocated roll no.50210820 and control no.12537931. The written examination was held on 30.11.2014 and the result was declared in 2015. The applicant was short-listed to appear in the next stage of selection, i.e., Physical Endurance Test (PET). He was qualified in the PET and was called for next stage of documents verification (DV) on 24.06.2015.

After DV stage, candidature of the applicant was rejected. The method of communication to all candidates is through the website. The reason put-forth on the website reads as follows:

“In terms of Employment Notification No.220E/Open Mkt/RRC/2013 dated 30/12/2013, published in Employment News dated 11-17 January 2014, a recruitment process to fill up 5679 vacancies in Pay Band-I Rs.5200-20200 + GP Rs.1800/- Group "D" Post was initiated. In Para 5 thereof detailed information on how to apply, general conditions and invalid applications with clear stipulation that admission of all the candidates at all stages of recruitment would be purely provisional subject to satisfying the prescribed conditions was prescribed. It was also stipulated in the notification/instructions that candidate should fill up the application form including the paragraph indicated in the application form in his/her own hand-writing.

Railway Recruitment Cell got your case examined from Ex. Government Examiner for Questionable Documents [GEQD] nominated by Ministry of Railway, Govt. of India, for matching of Hand-writing/Signature on the application form vis a vis the OMR Sheet, Document verification Proforma etc. The Document Expert has since tendered his opinion/advice to the effect that the writing/Signature on the application, OMR Sheet. Document verification proforma under examination do not match. Accordingly you have violated the examination condition regarding the candidates to fill up the application form including the paragraph indicated in the application form in his/her own hand-writing or it is a case of impersonation. Hence after taking into account

all facts of your case it has been decided to reject your candidature for the above examination. You are further informed that any further action, if any, to be taken against you by Rly. Administration for above noted misconduct/violation of Examination conditions, will be taken up separately.

Take note that the issue regarding cancellation/rejection of candidature of candidates resorting to violation of examination conditions and misconduct of impersonation was a matter before the Hon'ble Courts / Tribunals and same has been settled wide orders dated 9.7.2014 in the case of Deepak Vs UOI OA No.1355/HR/2013 of Chandigarh Bench and orders dated 01.05.12 in OA No.1181/2012 Sonu v UOI and orders dated 27.07.15 in OA No.2356 of 2014 Devendra Kumar Vs UOI by Principal Bench/CAT/Delhi & Apex Court Judgment in SLP(C) No.706/2014 i.e. UOI & Anr. Vs Sarwan Ram & Anr.

You stands informed accordingly through RRC/NR website, which is the prime source of dissemination of information to the candidates.”

2. The applicant sent an RTI query seeking report of handwriting expert, a copy of the application form, OMR sheet and the form filled at the time of documents verification. The report of the handwriting expert was refused while other documents were supplied. The reason for cancellation of the candidature is mismatch of the handwriting and the signatures at various stages that is at the time of application, writing exam and DV. The applicant pleaded as under in his OA:

“4.9 It is submitted that normally the applicant used his signature in English only, but in the application form it was required to sign both in English as well as Hindi and that is why the applicant put his name only “Dinesh Kumar” in Hindi. It is submitted that the examination was conducted almost one year and that applicant forgot his signature put by him in Hindi and that is why in OMR sheet the applicant put his English signature as well as Hindi signature and Hindi signature he used his surname also i.e. “Dinesh Kumar Gurjar”. It is submitted that subsequently in all documents the applicant put the

same signature and otherwise, there is no mismatching of Hindi writing or signature in English and there is no question of impersonation.”

2.1 Thereafter the applicant made representations dated 28.01.2016 and 07.04.2016 which were not replied and hence feeling aggrieved instant OA has been filed. The applicant pleads that his candidature has been rejected without giving him a show cause notice.

2.2 The applicant also relied upon a decision by the Tribunal in OA No.2112/2013 and pleaded that the Hon’ble Tribunal vide judgment dated 19.12.2013, while deciding the identical issue as the case of the present applicant, had quashed the earlier show cause notice, with liberty to the respondents to issue fresh show cause notice, if so required and advised, giving full details of allegations of malpractice/copying and the modus operandi adopted. Accordingly, the ratio laid down in this judgment, is fully applicable in the instant case also.

3. The applicant has also filed MA No.773/2017, seeking direction to the respondents to supply copy of the handwriting expert report by Ex.GEQD. In this connection, the applicant has relied upon an order by the Tribunal dated 16.05.2016 in MA No.282/2016 in another OA No.412/2015

by some other candidate, which reads as under:

“In our opinion, in the interest of justice, it is necessary that all the relevant documents are not only brought on record but are also made available to the applicant. Accordingly, the respondents are directed to produce the copies of the applicant's OMR sheet, document verification form and expert report. They are directed to file these documents with an additional affidavit with an advance copy to the counsel for the applicant. MA stands allowed accordingly.”

4. The respondents pleaded that the candidature of all candidates, including applicant remains provisional till they are finally selected. The examination process involves various stages namely application, written examination, PET, documents verification stage and lastly the medical examination. The candidates found successful in earlier stage is called for next stage and those successful in all stages, are issued appointment letters. In respect of the applicant, he cleared the written examination and the PET.

With a view to detect and avoid impersonation, certain system has been followed in such examinations wherein a paragraph is required to be written in candidate's own handwriting at the stage of making application and he is required to put his signature in Hindi as well as in English. The OMR sheet is to be filled by the candidate at the time of written examination along with the direction that the same English paragraph is to be written in candidate's own handwriting and he is required to put his signatures in Hindi

as well as in English on the OMR sheet. At the time of documents verification also, the same English paragraph is required to be written in candidate's own handwriting in English as well as in Hindi and the candidate is again required to put his signature in English as well as in Hindi.

These handwriting and signatures are compared to detect impersonation and doubtful cases are sent for expert examination by Ex.GEQD. It was at documents verification stage, when these handwriting and signatures were matched, a doubt had arisen whether the same candidate had filled up the application form and thereafter appeared at various stages of examination. Accordingly, the papers were sent for examination by Ex-Government Examiner for Questionable Documents (Ex.GEQD).

The expert report indicated that the signatures in Hindi do not match and the handwriting also does not match. Accordingly, in terms of the rules for the said examination, the candidature of the applicant was rejected and he was advised through the website.

4.1 The respondents had also made the following averments in their counter-affidavit:

“4. That during processing/examination of his case in RRC office, it was decided to send the case of the applicant to Ex. Government Examiner For Questionable Documents (Ex.GEQD) duly nominated by Ministry of Railways for

detailed examination with reference to matching of handwriting and signatures on relevant papers i.e. Application Form, OMR Sheet, DV papers containing samples of handwriting and signatures taken at various stages i.e., on application form at the time of submitting application to RRC, on OMR sheet during written examination followed a sample taken by DV Committee during document verification/Medical Examination.

5. That on receipt of Expert Report confirming mismatch of his hand writing & signatures on relevant papers, the case of the applicant was rejected by the competent authority for not following the examination conditions and status uploaded in the form of order on RRC website for the information of candidates as already notified in notification. Respondents are ready to produce the record before this Hon'ble Tribunal if directed so."

4.2 The respondents have relied upon the following judgments and made pleadings as under:

i) **Chairman, Board of Mining Examination and Chief Inspector of Mines & Anr. v. Ramjee**, [AIR 1977 SC 965], where the Hon'ble Supreme Court has observed that natural justice is not an unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of.

ii) **Dr. Umrao Singh Choudhary v. State of Madhya Pradesh & Anr.**, [(1994) 4 SCC 328], where the Hon'ble Apex Court held that the principles of natural justice do not supplant the law, but supplement the law.

iii) **Syndicate Bank & Ors. v. Venaktesh Gururao Kurati,** [JT 2006 (2) SC 73], wherein it was held that to sustain the allegation of violation of principles of natural justice, one must establish that prejudice has been caused to him for non-observance of principles of natural justice.

iv) **Shankarshan Dass v. Union of India**, [AIR 1991 SC 1612 and **Ekta Shakti Foundation v. Govt. of NCT of Delhi**, [2006 (II) SC 709] where the Hon'ble Apex Court has held it is a trite law that merely because the candidate's name appear in the select list he/she does not get indefeasible right to get appointment and the employer has got right to cancel the candidature.

v) **Union of India & Anr. v. Sarwan Ram & Anr.**, [Civil Appeal No.9388/2014]. In its order dated 08/10/2014 the Hon'ble Apex Court in last two paras of its judgment held as under:

"Condition No. 8.7 (i) is one of the conditions mandate mentioned in the employment notice. We are of the view that in non-compliance of such condition, it was always open to the competent authority to reject such application being incomplete. Respondent no. 1 having failed to do so, the competent authority has rightly rejected the application. In such circumstances, it was not open to the High Court to direct the authorities to consider the case of respondent no. 1 for appointment, sitting in appeal over the scrutiny of application by referring to certain certificate of length of service. "High Court under Article 226 of the Constitution of India is not competent to scrutinize the applications filed for appointment and cannot substitute its own opinion based on some evidence to come to a conclusion whether the application form is defective.

In view of the reasons recorded above, we have no other option but to set aside the impugned judgment dated 28th May, 2013 passed by High Court of Judicature for Rajasthan, Jaipur Bench at Jaipur in D.B. Civil Writ Petition No. 13032 of 2011.”

vi) **Bedanga Talukdar v. Saifudaullah Khan and Ors.**, [JT 2011 (11) SC 367] the Hon’ble Supreme Court has held as under:

“Selection process has to be conducted strictly in accordance with the stipulated selection procedure.

Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved.”

vii) **Rahul Prabhakar v. Punjab Technical University, Jalandhar**, [1997 (3) SCT 527] where the Hon’ble High Court of Punjab & Haryana has held as follows:

“The provisions contained in the information brochure for the Common Entrance Test 1997 have the force of law and have to be strictly complied with. No modification can be made by the Court in exercise of powers under Article 226 of the Constitution of India. Whenever a notification calling for applications, fixes date and time within which applications are to be received whether sent through post or by any other mode that time schedule has to be complied with in letter and spirit. If the application has not reached the Co-ordinator or the competent authority as the case may be the same cannot be considered as having been filed in terms of the provisions contained in the prospectus or Information Brochure. Applications filed in violation of the terms of the brochure have only to be rejected.”

viii) **T. Jayakumar v. A. Gupu & Anr.**, [(2008) 9 SCC 403] where the Hon’ble Apex Court has held as follows:

“The defects in the application form ignored at the time of screening does not preclude the selection committee from examining its validity and holding the candidate ineligible even though he has been called for interview and principle of estoppels is inapplicable and authority’s decision was not arbitrary and unreasonable.”

ix) The decision of the Hon'ble High Court of Punjab & Haryana and Chandigarh in Civil Writ Petition No.9101/2013 was quoted, which followed the aforesaid law laid down by the Hon'ble Supreme Court and also taken the same and similarly holding as under:

“8. For the reasons recorded above, I do not find any infirmity in the action of the respondent-Commission in rejecting the candidature of the petitioner for the post of President of District Consumer Disputes Redressal Forum on the ground that his application was not received through proper channel and prior to the last date as was the requirement in terms of the specific stipulation contained in the advertisement. No merit. Dismissed.”

x) It was pleaded that the issue involved is no more res integra in view of the decision of this Hon'ble Tribunal in

Devendra Kumar v. General Manager, Northern Railway, New Delhi OA No.2356/2014, **Praveen Kumar v. GM**, OA No.128/2015 dated 15.02.16, **Krishan Kumar v. UOI**, OA No.695/2015, Orders dated 09.09.2016 in **Ram Karan v. UOI**, OA No.2109/2015, orders dated 05.09.2016 in OA No.2915/2015 **Sachin v. GM, Northern Railway**, Orders dated 07.09.2016 in OA No.1885/2015 in **Sandeep v. UOI**, Orders dated 08.09.2016 in OA No.4526/2015, **Jeetender v. UOI**.

xi) It was pleaded that the Hon'ble High Court of Delhi vide para-7 of the order dated 26.05.2016 in WP(C) No.4379/2016 & 4396/2016 has also observed that the Courts/Tribunal

certainly would not scrutinize or substitute their opinion for that of the experts.

4.3 In view of the foregoing, the respondents pleaded that the OA is required to be dismissed.

5. The matter has been heard at length. Shri Yogesh Sharma, learned counsel represented the applicant and Shri Sat Pal Singh, learned counsel, represented the respondents.

6. The process for recruitment is an important and a sacrosanct process and integrity is to be maintained. With a view to avoid impersonation, certain procedures have been laid down. In the instant case the procedure includes that a candidate has to write in his own handwriting the same paragraph at the stage of making application, at the stage of writing examination in OMR sheet as well as at the stage of documents verification. At all these stages the candidate is also required to put his signature in Hindi as well as in English.

7. In view of a large number of candidates, the occasion for verification of the same arises at the stage of documents verification. Thereafter, the doubtful cases are sent for report by the expert, viz. Ex.GEQD. In this case the Ex.GEQD report indicated mismatch in handwriting as well as in signatures and thus a doubt about impersonation got confirmed. This cannot be faulted. Since this rule, for

cancellation of candidature in such cases of mismatch, is uniformly applied, the applicant's candidature was rejected. Even a preliminary examination by the Tribunal of the signatures and writing at these three stages reveals differences as under:

| Item | Stage of Examination | | |
|-------------------|--|--|------------------------------------|
| | Application | OMR (Written Exam) | Document Verification |
| English Signature | Dinesh Kumar | Dinesh Kumar | Dinesh Kumar |
| Hindi Signature | दिनेश कुमार | दिनेश कुमार गुर्जर | दिनेश कुमार गुर्जर |
| | The word गुर्जर is missing from signature at Application stage. Further, the font and pattern of writing the word "कुमार" at Application stage is different and does not match with two subsequent stages. | | |
| English sentence | Small letter 't' used in the para. | Capital letter 'T' used in various words, even when they appear in middle of sentence or in words. | Small letter 't' used in the para. |

It is obvious that the applicant had signed in Hindi as "दिनेश कुमार" at application stage, whereas he signed as "दिनेश कुमार गुर्जर" at both OMR as well as documents verification stage. Thus, the word "गुर्जर" is missing at Application stage. Further, the way word 'कुमार' has been signed at Application stage, does not match with the same at OMR and documents verification stage. The English paragraph written in his own handwriting also indicates that the small letter 't' has been used at application stage and at documents verification stage. As against this, capital letter 'T' has been used in writing English paragraph in OMR, even at places where capital letter is not needed.

These differences are clearly indicative of impersonation as the same candidate is not likely to sign or write in such different forms. The pleadings by applicant that he normally does not sign in Hindi and thus the difference, is not acceptable.

8. In view of the foregoing, when the differences are visible, even on a cursory glance, no useful purpose would be served by further calling and examining the report of Ex.GEQD. Accordingly, MA No.773/2017 is dismissed.

9. Resultantly, pleadings by applicant are not finding acceptability. The OA is dismissed being devoid of merit.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(S.N. Terdal)
Member (J)

‘San.’