

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

LIBRARY

No. O.A. 350/01808/2017
M.A. 350/01015/2017

Date of order: 4.7.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri Niranjana Kumar Ranjan,
Son of Krishan Deo Poddar,
Aged about 29 years,
Unemployed youth,
Residing at C/o. Chandradeo Poddar,
Vill. & P.O. - Sudhrid Nagar,
Dist. Begusarai,
State of Bihar,
Pin - 851218,
Written Examination Roll No. 62087641

Applicant

- V E R S U S -
1. Union of India,
Service through the General Manager,
South Eastern Railway,
11, Garden Reach Road,
Kolkata - 700 043.
 2. The Chairman (Rectt.),
Railway Recruitment Cell,
South Eastern Railway,
11, Garden Reach Road,
Kolkata - 700 043.
 3. The Assistant Personnel Officer (Rectt.),
South Eastern Railway,
11, Garden Reach Road,
Kolkata - 700 043.

.. Respondents

For the Applicant : Mr. P. Kashyap, Counsel

For the Respondents : Mr. B.P. Manna, Counsel

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ORDER (Oral)**Per Dr. Nandita Chatterjee, Administrative Member:**

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunal praying for the following relief:-

(i) An order directing the respondents to cancel, rescind, withdraw, quash and set aside the purported Order No. SER/P-HQ/RECTT(RRC)/O.A. No. 350/843 of 2015 dated 15.9.2015 is bad in law and cannot be sustained.

(ii) Acts on omissions on the part of the respondents in not allowed medical test after completed document verification for employment by offering appointment are totally arbitrary in the eye of law.

(iii) An order directing the respondents, the rejection of the candidature of the applicant which is irregular, arbitrary, discriminatory, motivatedly, authorities not only goes to show ill will, malice and malafide and therefore is bad in law and cannot be sustained.

(iv) An order directing the respondents to recall the decision regarding rejection of the candidature of the applicant and further directing them to give medical examination for appointment to the applicant as per his merit position with all consequential benefits within period as to this Hon'ble Tribunal may seem fit and proper.

(v) An order directing the respondents to produce entire records of the case at the time of adjudication for conscionable justice.

(vi) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper.

2. Heard Id. Counsel for both sides, examined pleadings and documents on record.

3. An M.A. bearing No. 350/01015/2017 arising out of O.A. 350/01808/2017 has been filed by the applicant praying for condonation of delay. The applicant admits that there has been a delay of more than two years. By way of explanation, the applicant submits that, as the respondents maintained a stoic silence to his representation and reminders thereof, he had to approach the Tribunal earlier in first stage litigation and, although the respondents issued a speaking order on 15.9.2015, in compliance thereof, the applicant, who belongs to a poor family was constrained because of paucity of financial resources to challenge the order on time, and, accordingly, prays for condonation in this regard.

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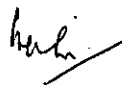
The respondents have disputed the applicant's prayer for condonation of delay on the grounds that the speaking order had categorically rejected his prayer on cogent grounds, that the applicant has prayed for condonation of delay after more than two years and that also without bringing any new facts and, as such prayer for condonation of delay needs to be rejected.

We note that the applicant had earlier approached the Tribunal in first stage litigation being frustrated by the fact that the respondents refused to respond to his representations and, that, although a speaking order was passed on 15.9.2015 in compliance with the Tribunal's order dated 7.7.2015, his financial constraints stood in the way of approaching the Tribunal immediately thereafter and also in conducting regular consultations with his Ld. Counsel. Accordingly, as the applicant is an aspirant for employment from a poor family, we condone the delay and proceed to consider the same on merits.

M.A. is disposed of accordingly.

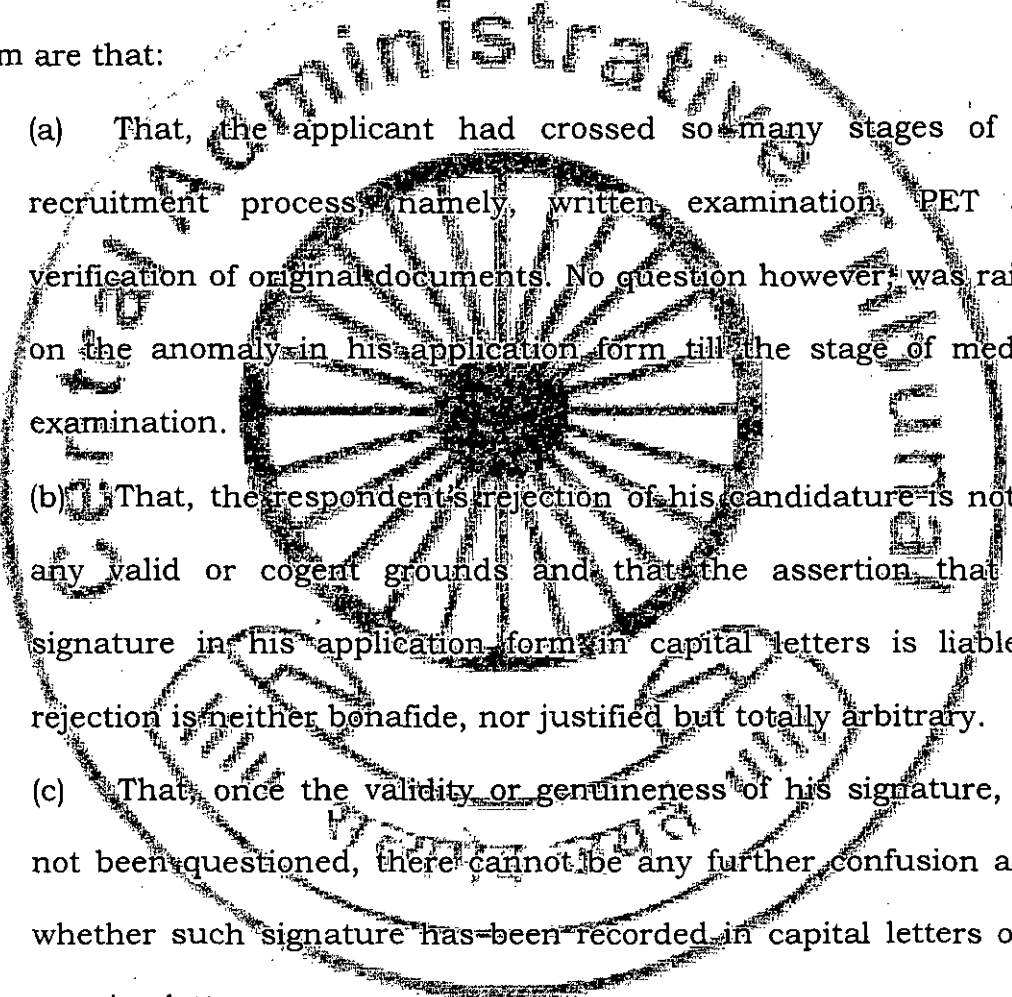
4. The submissions of the applicant, as made through his Ld. Counsel is that, the applicant, an OBC candidate, had responded to Employment Notice No. SER/RRG/2010 for recruitment in the Gr. 'D' post at PB-1 with Grade Pay Rs. 1800/-. The applicant had duly appeared in the written examination and was thereafter called for a Physical Efficiency Test (PET). Upon completion of PET, he was thereafter called to attend on 5.2.2013 for verification of documents. Despite having passed through each stage to qualify for the said recruitment, however, the applicant was not called for the medical examination.

The applicant, having made representations and issued reminders thereon, and, not having received any response, approached the Tribunal in O.A. No. 350/00843/2015. The Tribunal disposed of the said O.A.



with a direction on the respondents to pass a reasoned and speaking order within a period of 2 months from the date of communication of the order. The respondent authorities, however, rejected the candidature of the applicant on the ground that the applicant's signature in the application form is in capital letters and, being aggrieved with such unreasonable rejection, the applicant has approached the Tribunal in second stage litigation.

5. The primary grounds advanced by the applicant in support of his claim are that:

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- (a) That, the applicant had crossed so many stages of the recruitment process, namely, written examination, PET and verification of original documents. No question however, was raised on the anomaly in his application form till the stage of medical examination.
- (b) That, the respondents' rejection of his candidature is not on any valid or cogent grounds and that the assertion that the signature in his application form in capital letters is liable to rejection is neither bonafide, nor justified but totally arbitrary.
- (c) That, once the validity or genuineness of his signature, has not been questioned, there cannot be any further confusion as to whether such signature has been recorded in capital letters or in running letters.

6. The respondents have disputed the claims of the applicant with reference to their recruitment notification dated 15.12.2010 (Annexure A-1 to their reply). In para 7.5 of the said notification, the following has been stated:

"7.5. Admission of the candidate at all stages of recruitment will be purely provisional subject to satisfying the prescribed conditions."

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And in Para 9.8 of the said notification, the following has been noted:

"9. INVALID APPLICATIONS:

XXXXXXX

"9.8. Applications without signature or with signatures in capital letters or with different signatures at different places or smudged signature.

XXXXXX"

According to the respondents, they had conformed to the terms and conditions of their notification when they had held that the applicant's application is invalid as he had recorded his signature in capital letters, that, the applicant was expected to familiarize himself with the contents of the entire notification before submitting his application form and, that, Para 9.8 was never under challenge at any stage.

7. We perused the applicant's application form annexed at A to the reply as well as to the O.A. and we note that as the applicant had recorded his signature in capital letters, his application should have been treated as void ab initio and he should not have been issued any call letter to appear at the written examination or to appear in follow up stages of PET or document verification. Surprisingly, the respondents have proceeded to invite the applicant through all these stages despite the fact that his application was void ab initio and there is no explanation on behalf of the respondents as to how an applicant submitting an invalid application was allowed to proceed upto the stage of document verification and purportedly declared successful at each stage. The respondents would take shelter in Para 7.5 of their notification which states that admission of the candidate at all stages of recruitment will be purely provisional subject to satisfying the prescribed conditions and since Para 9.8, which calls for the correctness of signature is indeed a prescribed condition, the applicant's case has been aborted at the stage of medical examination.

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8. The conventional function of a signature is to permanently affix to a document a person's uniquely personal, undeniable self-identification which is an evidence to that individual's personal witness and certification to the content of the documents.

It has to be, therefore, in a form which stands testimony to the calligraphic evidence of an individual's unique identification. It is perhaps as a measure of abundant caution and to ensure unique identification, that the respondent authorities may have insisted that all applicants sign in running handwriting.

As per law, one can sign in capital letters. Signature being one's exclusive domain, signing in any language and any form is a matter of individual choice. Consequently, the applicant is justified in stating invalidity of signature recorded in capital letters is not a legal contention. At the same time, however, we find that the applicant has not challenged Para 9.8 of the notification which had mandated him not to sign in capital letters and had ruled that signing in capital letters would render his application invalid.

Accordingly, given the fact that the notification of the respondent authorities is not under challenge, the applicant is bound by the provisions therein.

8. Therefore, we would hesitate to intervene in the contention of the respondents that the applicant's candidature was rendered invalid for violation of the provision 9.8 of the notification. At the same time, we would hold that the respondent authorities, instead of rejecting his candidature ab-initio, should not have allowed him to proceed through various stages of the recruitment process and this indicates a serious lapse on the part of the respondent authorities.

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9. In our considered view, the lapses of the respondent authorities should not deprive the applicant of his legitimate aspirations, having qualified in earlier stages of the recruitment process. Hence, we allow the applicant liberty to pray for an opportunity for appearing at the medical examination within three weeks of receipt of a copy of this order and remand this matter back to the Respondent No.2, namely, the Chairman, (Rectt.), Railway Recruitment Cell, South Eastern Railway, Kolkata, to consider as per Rules, the prayer of the applicant for medical examination, if so preferred, within a period of 12 weeks from the date of receipt of such representation.

With these directions, this O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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