

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. O.A.350/00032/2016

Date of order : 07.01.2016

Present : Hon'ble Justice Mr. G. Rajasuria, Judicial Member
Hon'ble Mrs. Jaya Das Gupta, Administrative Member

NIRAJ KUMAR

VS.

UNION OF INDIA & ORS.
(R.R.C., S.E. RLY.)

For the applicants : Mr. J. R. Das, counsel

For the respondents : Mr. A.K. Dutta, counsel

ORDER

Per Justice Mr. G. Rajasuria

Heard both.

2. This O.A. has been filed seeking the following reliefs:-
 - "i) An order directing the respondents to cancel, rescind, withdraw, quash and set aside the order dated 12.11.2015 issued by Assistant Personnel Officer(Recd.) for Chief Personnel Officer, South Eastern Railway is bad in law and cannot be sustained;
 - ii) An order holding that the rejection of candidature of the applicant dated 12.11.2015 on the ground that IPO date and number not mentioned in his application form which not at all vital irregularity and actuated by any ill motive by the applicant, therefore is bad in law and arbitrary and cannot be sustained;
 - iii) An order directing the respondents to recall the decision regarding rejection of 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;
 - iv) An order directing the respondents to produce entire records of the case at the time of adjudication for conscientious justice;
 - v) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."
3. The point for consideration is as to whether the rejection of the candidature of the applicant invoking para 7.4 of the employment notice at the belated stage is justified and that too when the applicant having participated in the written test and PET, and came out successful.

4. The perusal of the records would unambiguously and unequivocally highlight and spotlight the fact that the applicant passed the written test and the PET and he also successfully underwent the document verification. Thereafter only his candidature was rejected on the flimsy ground by invoking the said para 7.4. It is not the case of the Railway authorities that there was any fraud committed by the applicant. Had the Railway authorities thought of rejecting his candidature by invoking the Para 7.4, they ought to have done it at the earliest point of time. It became fait accompli that the applicant was allowed to participate in all the Railway tests and examinations and it is too late in the day on the part of the Railways to reject his candidature on flimsy grounds.

5. The ratio scientiae behind the respondent authority's order in rejecting the candidature cannot be countenanced legally. The fact alleged in the speaking order is not capable of cutting at the root of the very candidature of the applicant. In such a case, we are of the view that the speaking order has to be set aside and a positive order has to be given for appointing the applicant to the Group 'D' post by the respondent concerned, if he is otherwise eligible, within a period of three months from the date of receipt of a copy of this order and accordingly it is ordered.

6. On balance, the O.A. is disposed of. No costs.

(J. Das Gupta)
Administrative Member

(G. Rajasuria)
Judicial Member

s.b