

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**LIBRARY**

No.O.A.1283/2013

Date of order: 19.4.16

Present: Hon'ble Mrs. Urmita Datta Sen, Judicial Member

Sri Praladh (Age : 37 yrs.)
 Son of Late Bangali
 Dependable brother of Dhir Singh
 Ex-Safaiwala under CHI/Howrah Station
 Residing at 17A Ashu Bose Lane, Howrah
 PO and Dist. Howrah -711101

.....Applicant

VS.

1. Union of India, Service through the General Manager, Eastern Railway, 17 N.S. Road, Kolkata - 700001
2. The Divisional Railway Manager, Eastern Railway, Howrah - 711101
3. The Chief Personnel Officer, Eastern Railway, Fairlie Place, Kolkata-700001
4. The Sr. Divisional Personnel Officer Eastern Railway Howrah - 711101

.....Respondents

For the applicant : Mr. A.K. Bairagi, counsel

For the respondents : Mr. S.K. Das, counsel

ORDER

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"i) To pass Order/and or direction upon the respondent authorities particularly the Respondent No.2 the DRM/Howrah to consider the case of appointment of the applicant in the post of Safaiwala on the missing ground of his elder brother by setting aside the order dt. 10.01.2011 within the specified period;

ii) To pass such other further order/or orders as your Lordships may deem fit and proper."

2. As per the applicant, the elder brother of the applicant, while working as Safaiwala under the Chief Health Inspector, Howrah station, was missing from 23.09.1993. The mother of the applicant lodged a missing diary at Howrah Police Station being Diary No.1337 dated 23.09.1993. Thereafter they published a notification in the local newspaper, Ananda Bazar Patrika on 08.08.1997 to know the whereabouts of Dhir Singh, the elder brother of the applicant.

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(Annexure-A). The Special Superintendent of Police, C.I.D., West Bengal, Bhabani Bhavan, Kolkata vide letter dated 31.08.1998 informed the applicant's mother that whereabouts of Sri Dhir Singh was still unknown according to the records.(Annexure A-1). The A.S.I. of Howrah Police Station vide his letter dated 14.09.2004 also informed the D.R.M., Howrah that on enquiry he found that the brother of the applicant, Dhir Singh did not return to his house and was traceless.(Annexure A-2). Thereafter, the mother of the applicant submitted a representation dated 27.05.2009 requesting the Senior D.P.O., Eastern Railway, Howrah to provide compassionate appointment in favour of the applicant.(Annexure A-3). The applicant states that he submitted his School Transfer Certificate and Marksheets issued by the Headmaster of Jagriti Hindi Vidyalaya, Liliuah, Howrah. The concerned office supplied a formal application, which was duly filled up by the applicant and countersigned by the Chief Health Inspector, Howrah on 22.05.2009 (Annexure A-4). As per direction of the respondents, the applicant also submitted 'No objection' Certificate from his two brothers on 22.07.2009 (Annexure A-5). The mother of the applicant also submitted representations to the D.R.M, Howrah for payment of settlement dues and for compassionate appointment on 04.05.2010 and 10.07.2010 respectively. However, the Sr. D.P.O., Howrah vide letter dated 10.01.2011 rejected the claim of the applicant for compassionate appointment on the ground that his School Leaving Certificate was not genuine. According to the applicant, after receiving such letter of rejection, he approached the D.I. of Schools and filed one representation dated 12.06.2013 along with the certificate countersigned by the D.I.(Annexure A-9). The applicant states that he submitted repeated representations on 30.10.2012, 24.05.2012, 23.08.2012 and 27.05.2013 but his case was not considered. The applicant also sent an advocate's notice on 25.07.2013(Annexure A-11), but with no effect. Being aggrieved, the applicant has filed this application seeking the aforesaid reliefs.

3. The respondents have filed their written statement denying the claim of the applicant, wherein they have vehemently submitted that the instant application is hopelessly barred by limitation as the impugned order was passed in 2011 and the applicant filed this O.A. on 27.09.2013 that too without any application for condonation of delay. As per the respondents, the applicant preferred an application for compassionate appointment and his case was sent for enquiry by Welfare Inspector regarding verification of Educational Certificates submitted along with his application. During the enquiry, the name of the applicant was not found recorded in the Class Attendance Register of the concerned school for concerned year, which would be evident from the letter dated 18.11.2010 issued by the Teacher-in-charge of the school and therefore, it was observed that the candidate had submitted a fake School Leaving Certificate

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and as per the instruction issued by CPO/ER/KKK's letter dated 27.03.2009(Annexure R-1), once a fake certificate was submitted, no second chance would be given as it would encourage only the spirit of taking chances of submitting false certificates.

4. The applicant has filed rejoinder to the reply of the respondents wherein he submitted that after rejection of his claim, he further appealed to the authorities on different occasions, but no reply has been given. So, he served a legal notice to the respondents but no reply was given to the same. Being aggrieved with such inaction of the respondents, he approached this Tribunal. It is further submitted by the applicant that enquiry was done without given notice to him and behind his back, therefore, if there is any dispute with regard to the date of his admission in the school, that would be explained by the Headmaster as the Headmaster issued certificate as per the school record and such certificate was countersigned by the D.I. of Schools. Moreover, in the reply to the RTI application dated 04.07.2014, the D.I. of Schools stated that the Transfer Certificate, which was issued by the Teacher-in-charge of Jagriti Hindi Vidyalaya, Liluah, is in favour of the applicant on 15.07.1992 and countersigned by that office on 18.05.2012 and after getting such RTI reply from the D.I. of the Schools, the applicant sent the said reply to the D.R.M., Howrah on 07.11.2014 to prove that the certificate was genuine.

5. I have heard the Id. counsel for both sides and perused the materials placed on record.

6. During the course of hearing, counsel for the applicant has drawn my attention to the letter dated 28.10.2014 (Annexure R-1 to the Rejoinder), wherein it has been stated that the Transfer Certificate was issued by the Teacher-in-charge of Jagriti Hindi Vidyalaya in favour of the applicant on 15.07.1992 and as per record of the office, the said certificate was countersigned on 18.05.2012. On the contrary, the Id. counsel for the respondents has drawn my attention to Annexure A-10 to the O.A., wherefrom it appears that a certificate was issued by the Teacher-in-charge of the same school on 24.03.2012 (Annexure A-10) stating that the applicant was admitted in the school on 05.01.1987. Secondly, in the Certificate dated 24.03.2012(Annexure A-10), address of the school has been shown as "26/14 F, Sailen Dhar Road, P.O. Liluah(Howrah)" whereas in the Transfer Certificate (Annexure A-12) purported to be issued on 15.07.1992, the address of the school has been printed as "Old 26/14F, New 94,Sailen Dhar Road, P.O.Liluah, Howrah". Therefore, two different addresses are shown in two Certificates. The column of year in the second paragraph of the Certificate at Annexure A-12 is printed as "200"by cutting of which it has been written as 'Seventy Six' The cutting of 200.. in the second paragraph of the Certificate at Annexure A-12 raises suspicion as there was no possibility of printing 200..in a certificate being issued in the year 1992. Moreover, the

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Teacher-in-charge of the said school vide his letter dated 18.11.2010 (Annexure R-3) clearly stated that the applicant was admitted in the school on 07.01.1987, whereas the date of admission of the applicant was shown as '05.01.1987' in the Certificate dated 24.03.2012 produced by the applicant as Annexure A-10 to the O.A. However, the Teacher-in-charge vide his letter dated 18.11.2010 (Annexure R-3) made it clear that the name of Sri Praladh was not found in the Class Attendance Registers of Class VI to Class VIII for the relevant period i.e. from 1987 to 1989.

7. As per the Railway Board's Circular, once a fake certificate was submitted, no second chance would be given as it would encourage only the spirit of taking chances of submitting false certificates. Therefore, any certificate submitted by the applicant subsequently, cannot be entertained as per the extant rules. It transpires from the record that there are some contradictory statements in the earlier and the subsequently filed documents and the subsequently filed certificate cannot be accepted in view of the decision of the competent authority as appears from the letter dated 27.03.2009(Annexure R-1). It also transpires from the letter of the Teacher-in-charge of Jagriti Hindi Vidyalaya, Liluah, Howra, that the applicant got admitted to the same school on 07.01.1987 in Class VI, but he did not continue till Class VIII as his name was not found in the Class Attendance Registers of the relevant years. Moreover, this O.A. is barred by limitation as the impugned order rejecting the claim of the applicant was passed by the respondents in 2011 and this O.A. has been filed in 2013 without any application for condonation of delay.

8. In view of the foregoing discussions, I do not find any reason to interfere in the decision of the authority. Accordingly the application is dismissed being barred by limitation and also on merit. No order as to cost.

(Urmita Dutta Sen)
Judicial Member

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