

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.210/00228/2014

Date of decision : 05<sup>th</sup> July, 2019

CORAM : R. VIJAYKUMAR, MEMBER (ADMINISTRATIVE)  
RAVINDER KAUR, MEMBER (JUDICIAL)

Shri Kamalakar Balaram Bhundere,  
at Village – Charawale, Post :- Wakas,  
Taluka : Karjat, Distt. Raigad, Pin 410 101.  
(State : Maharashtra).  
(By Advocate Shri D.N.Karande)

.. Applicant

**VERSUS**

1. Union of India, through The General Manager,  
Central Railway,  
2<sup>nd</sup> Floor of General Manager's Office Building,  
CST Mumbai 400 001.
2. Chief Personnel Officer, Central Railway,  
1<sup>st</sup> Floor of General Manager's Office,  
CST Mumbai 400 001.
3. Deputy Chief Personnel Officer (Recruitment),  
Central Railway Recruitment Cell,  
1<sup>st</sup> Floor of Chief Project Manager (Conversion) Office  
Building, P.D.Mello Road, Wadi Bunder,  
Mumbai 400 010. ... Respondents  
(By Advocate Shri R.R.Shetty)

**O R D E R (Oral)**

*Per : R.Vijaykumar, Member (Administrative)*

This application has been filed on  
09.04.2014 under Section 19 of the  
Administrative Tribunals Act, 1985 seeking the



following reliefs:-

“8.a) That this Hon'ble Tribunal may kindly be pleased to call for the records pertaining to the Recruitment process which led to issue denial of applicant's eligibility by the letter dated 13.1.2014 (A-1).

8.b) This Hon'ble Tribunal may kindly quash the 'impugned orders qua the applicant and direct the respondents to take into account his 8<sup>th</sup> class certificate read with 10<sup>th</sup> failed mark-list for the purpose of his eligibility to include his name in the “select panel of notification 1/2007 condoning his age limit, as impugned in letter / information dated 13.01.2014 (A-1).

8.c) That the Respondents be directed to induct the applicant in the panel as per his merit order i.e. as per marks obtained in the written test in OBC category.

8.d) That the Respondents be directed to grant with the applicant all consequential benefits flowing from such induction in the panel.

8.e) Cost of this OA may kindly be saddled on the respondents.

8.f) Any other relief that this Hon'ble Tribunal deem fit to be granted.”

2. The applicant responded to an Employment Notification for filling up 6413 posts in Group 'D' categories issued in Employment Notice No.01/2007 with closing date 02.07.2007. The Advertisement required candidates to have the following educational qualification:-



"2. Educational Qualification:  
Minimum 8<sup>th</sup> Class Pass.

Those candidates who are appearing in and/or awaiting results of final examination of class 8<sup>th</sup> are not eligible. Academic qualification must be from recognized Educational Institution/Board, otherwise candidature will be rejected. Candidates having higher educational qualifications may also apply."

3. Further, in regard to caste certificate, the requirements were for production of attested copies of educational qualification certificates, proof of age and caste certificate or of SC/ST/OBC to be enclosed and these were to be attested by a Gazetted officer and further, that self attested certificate would not be valid. The applicant claims to be 'SSC Pass' in his application and further has ticked against 'OBC' category.

4. Learned counsel for the applicant submits that the applicant did not enclose OBC certificate with this application and further, that in regard to educational qualification, he admits that the applicant was only SSC fail and only that certificate was enclosed but the



required certificate of 8<sup>th</sup> standard pass or of SSC Pass as claimed in the form, was not enclosed with the application. This is stated to have been later produced to the authorities during Document Verification. The applicant secured 77.67 marks in the written examination whereas the cut-off marks for General candidate was 100 and for OBC candidate was 75.03 marks. The applicant was referred after document verification for medical examination. The results were published on the website and the applicant did not find place in the list and therefore, obtained information under RTI, which was communicated on 13.01.2014 (Annexure A-1) giving him the required information. They have mentioned in the RTI information letter that he had not filed a 8<sup>th</sup> standard pass proof and therefore, he was not eligible in terms of educational qualification. The reply filed by the respondents also indicates that they had called him for the written examination accepting his application only under the



General category.

5. Learned counsel for the respondents was heard. He refers to the Advertisement Notification in relation to the requirement of educational qualification and caste certificate and in particular, refers to instructions 10.6 which reads as under:

*"10.6 Before applying to the post, the candidate should ensure that he/she fulfills the eligibility criteria. The RRC/CR shall reject applications not fulfilling the requisite criteria, at any stage of recruitment and if erroneously appointed, such candidates shall be liable to be summarily removed from service."*

6. He argues that a candidate who is not eligible can be rejected at any stage of the appointment process and even if such a candidate is erroneously appointed. In support, he refers to the judgment of Hon'ble Apex Court in *Bedanga Talukdar Vs. Saifudaulah Khan & Ors*, S.L.P.(C) No.20152-20153 of 2010 dated 28.09.2011 which held as follows:

28. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity



with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the 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 can not be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant Statutory Rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete.

Relaxation of any condition in advertisement without due publication would be contrary to the mandate of quality contained in Articles 14 and 16 of the Constitution of India.

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31. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice.

In such circumstances, the High Court could not have issued the impugned direction to consider the claim of respondent No.1 on the basis of identity card submitted after the selection process was over, with the publication of the select list.”

7. Learned counsels have been heard and the pleadings have been carefully examined.

8. The case of the applicant falls squarely within the bar contained in the rulings of the Hon'ble Apex Court in the judgment passed in



***Bedanga Talukdar supra.***

9. The provisions of the Notification attached with the Advertisement have to be strictly followed by both the parties and in this case, it is quite clear that the applicant failed on two counts to satisfy the requirements of the Notification. On the basic requirements of being educational qualification, it is noticed that the applicant has claimed to be SSC pass whereas the applicant has admitted now that he was actually SSC fail. Quite apart, if the present claim is of basic eligibility, the applicant had a duty to enclose the 8<sup>th</sup> class pass certificate but he failed to do so. Further, the applicant had a duty to enclose the OBC certificate if he wished to be considered as an OBC category candidate and in the absence of such enclosures, there was no option for the respondents but to place him within the General category. The applicant became ineligible for further consideration under the General

category since the General category cut off was 100 marks. Therefore, the applicant has no case whatsoever and this OA has been filed without a proper material basis in facts or in law and is, accordingly not maintainable.

10. The Original Application is, therefore, dismissed without any order as to costs.

*(Ravinder Kaur)*  
*Member (Judicial)*

*(R. Vijaykumar)*  
*Member (Administrative)*

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*JD*  
*09/7/19*