

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
Circuit Sitting: Bilaspur

Original Application No.203/00689/2016

Jabalpur, this Tuesday, the 3rd day of December, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Chandan Thakur, Son of Shri Amarnath Thakur,
Aged about 24 years, resident of ward No. 6,
WRS colony, Type-I, Raipur, Tahsil
and District-Raipur, (CG)-492001

-Applicant

(By Advocate –**Shri Sanjeev Verma**)

V e r s u s

1. Deleted.

2. The Senior Personnel Officer (RP),
South East Central Railway, Bilaspur,
(CG)-495004

3. The Work Shop Personnel Officer,
Wagon Repair Shop, Raipur (CG)-492001

-Respondents

(By Advocate –**Shri R.N.Pusty**)

(Date of reserving the order:-06.12.2018)

ORDER

By Ramesh Singh Thakur, JM:-

The instant Original Application was directed against the impugned order dated 24.11.2015 (Annexure A-1).

2. The applicant has prayed for the following reliefs in this Original Application:-

“8. Relief Sought:-

1. That, this Hon’ble Tribunal may kindly be pleased to call for entire records of the case, from the respondents.
2. That, this Hon’ble Tribunal may kindly be pleased to set aside the impugned order dated 24.11.2015 as well as order dated 11.09.2015 and further be pleased to direct the respondent authorities to give joining to the applicant on the post of Group ‘C’ as per order dated 18/25.06.2015.
3. That, any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the costs of the application may be given.”

3. The brief facts of the case are that the applicant was appointed on the post of Group ‘C’ with grade pay of Rs. 1900/2000 vide order dated 18/25.06.2015 (Annexure A-2) and he was directed to report to Chief Personnel Officer’s office, SEC Railway for medical examination on or before 27.07.2015. In pursuance of the said appointment order, the applicant reported for medical examination. Thereafter he gave his joining where he was served with an order dated 11.09.2015, and he was provisionally appointed to the post of Trainee Technician Grade-III vide order dated 11.09.2015 (Annexure A-3).

4. The applicant refused to join on the said post, upon which he was pressurized to join on the said post of Trainee Technician Grade-III, otherwise he will not be permitted to join in SEC Railway in any post and his services will be in danger. Therefore,

the applicant gave his consent to join on the said post. After joining under protest, the applicant filed representation dated 26.10.2015 (Annexure A-4) for changing the post and give joining to the post of Group 'C' as per appointment order dated 18/25.06.2015. The representation of the applicant has been rejected by respondent No.3 vide order dated 24.11.2015. Hence, this Original Application

5. The respondents have filed their reply, in which they submitted that inadvertently, the post was mentioned as Jr. Clerk cum Typist in place of Group 'C' post, which was corrected by issuing a corrigendum vide officer letter dated 17.08.2016 (Annexure R-1). In response to offer of appointment letter, the applicant attended this office and appeared for medical examination. He has been declared medically fit in A-3 & below medical category. After medical examination the applicant was allotted the post of Technician-III in pay band of Rs. 5200-20200/- with grade pay of Rs. 1900/- considering the available vacancy, educational/technical qualification of the applicant etc. Since, the applicant possessed the technical qualification, i.e. passed with ITI (Welder), he has been allotted the said post of Tech. Grade III and posted at WRS/Raipur. After joining the said post the applicant filed representation for changing the post and allow him to join on the post of Group 'C'.

6. In Para-wise reply, the respondents submitted that the appointments was made under the quota of Scouts and Guides in SEC Rly Bilaspur and while notifying the vacancies in the employment notification, specific post was not notified but notification was for the Group 'C' post having Grade pay rs. 1900-2000 and for erstwhile Group 'D' post with Grade pay Rs. 1800/-, against which an application dated 24.10.2014 was submitted by the applicant for Group 'C' post in PB-1. Hence the applicant can not claim for a specific post. However, the applicant is trying to take undue advantage of an inadvertent/ typographical mistake in the 1st Para of the said appointment letter (Annexure A-2) wherein it was mentioned that the offer is not for the post of Jr. Clerk cum Typist. The said anomaly was rectified by issuing a corrigendum subsequently and the applicant as per his own will and without any pulls and pressure or any protest joined the post of Trainee Technician Grade-III as per technical qualification held by him suitable to the post.

7. The respondents further submitted that the applicant himself joined for duties to the post vide appointment letter dated 11.09.2015 (Annexure A-3 of the O.A.). He has also submitted consent letter dated 03.09.2015 for joining/accepting the post of Technician Gr. III (Welder). It is further submitted by the

respondents that in terms of the office letter dated 06.08.2015 and dated 31.08.2015, suitable instructions for correcting typographical mistake was communicated to WRS/Raipur. Accordingly, the WRS/Raipur has issued an office order dated 11.09.2015 for further posting as Trainee Technician-Gr. III in Welder Trade for a period of six months. Copy of consent letter dated 03.09.2015 of the applicant and copies of Chief Personnel Officer letter dated 31.08.2015 are attached herewith and marked as Annexure R-3 and R-4 respectively. The applicant joined as Trainee Technician-III in Welder Trade and there is no question of protest or otherwise.

8. It is further submitted by the respondents that after joining applicant submitted representation dated 26.10.2015 addressed to Chief Works Manager/South East Central Railway/Raipur requesting to appoint him as Jr. Clerk-cum-typist with GP Rs. 1900/- instead of Trainee Technician Grade III. The said representation has been disposed of vide letter dated 24.11.2015 stating that he was appointed as Tech. III in Welder Trade as per instruction issued by Head Quarter/Bilaspur for which he has also given his consent. His appointment process has been done by headquarter/Bilaspur and no change can be done by their officer and if he has any complaint he can submit it to Head

Quarter/Bilaspur. A copy of the letter dated 24.11.2015 is annexed as Annexure R-5.

9. Apart from this the applicant submitted another representation dated Nil addressed to the General Manager, SECR, Bilaspur for change of post from Trainee Tech Grade III to Jr. Clerk-cum-typist with Grade Pay Rs. 1900/-. In response to the said representation it has been informed vide letter dated 16.02.2016 that as per this office letter dated 31.08.2015 (Annexure R-4) it has been communicated that after approval of competent authority he has been allotted the post of Technician Grade III in Wagon Repair Shop/Raipur. A Copy of the letter dated 16.02.2016 is annexed as Annexure R-7 & R-8.

10. The applicant filed the rejoinder wherein he has reiterated its earlier stand taken in the Original Application. The applicant in his rejoinder stated that the offer of appointment letter was issued to the applicant for Group 'C' post in pay band-1 vide office letter dated 18/25.06.2015. However, in 1st para of the said letter it was mentioned that the offer is for the post of Junior Clerk-cum-typist which is inadvertent/typographical mistake as per the reply of the respondents and in this regard the following specific note has incorporated in the offer of appointment letter dated 18/25.06.2015. whereas contrary to the same the respondents issued an

appointment order dated 06.08.2015 whereby the other similar situated candidate who appear in the examination for the aforesaid post of junior clerk cum typist has been posted in headquarter in the post of junior clerk in a scout guides quota and till date those candidates are working in the aforesaid post whereas the respondents deliberately pressurize the applicant to join on the post of Tech. trade-III which is against the corrigendum and advertisement issued for appointment and the same is illegal.

11. Heard the learned counsel for the parties, perused the pleadings and the documents annexed therewith.

12. From the pleadings it is clear that the applicant was appointed on the post of Group 'C' with grade pay of Rs. 1900/2000 vide order dated 18/25.06.2015 (Annexure A-2) and he was directed to report to Chief Personnel Officer's office, SEC Railway for medical examination on or before 27.07.2015. In pursuance of the said appointment order, the applicant reported for medical examination. Thereafter he gave his joining where he was served with an order dated 11.09.2015, and he was provisionally appointed to the post of Trainee Technician Grade-III vide order dated 11.09.2015 (Annexure A-3). But the applicant refused to join on the said post. From the consent of the applicant the applicant was allowed to work on the post of Trainee Technician Grade.

After joining under protest, the applicant filed representation dated 26.10.2015 (Annexure A-4) for changing the post and give joining to the post of Group 'C' as per appointment order dated 18/25.06.2015. The representation of the applicant has been rejected by respondent No.3 vide order dated 24.11.2015.

13. The replying respondents have specifically submitted in their reply that inadvertently, the post was mentioned as Jr. Clerk cum Typist in place of Group 'C' post, which was corrected by issuing a corrigendum vide office letter dated 17.08.2016 (Annexure R-1). In response to offer of appointment letter, the applicant attended this office and appeared for medical examination. He has been declared medically fit in A-3 & below medical category. After medical examination the applicant was allotted the post of Technician-III in pay band of Rs. 5200-20200/- with grade pay of Rs. 1900/- considering the available vacancy, educational/technical qualification of the applicant etc. Since, the applicant possessed the technical qualification, i.e. passed with ITI (Welder), he has been allotted the said post of Tech. Grade III and posted at WRS/Raipur. After joining the said post the applicant filed representation for changing the post and allow him to join on the post of Group 'C'.

14. It has been submitted by the replying respondents that the appointments was made under the quota of Scouts and Guides in

SEC Rly Bilaspur and while notifying the vacancies in the employment notification specific post was not notified but notification was for the Group 'C' post having Grade pay rs. 1900-2000 and for erstwhile Group 'D' post with Grade pay Rs. 1800/-, against which an application dated 24.10.2014 was submitted by the applicant for Group 'C' post in PB-1. Hence the applicant can not claim for a specific post. However, the applicant is trying to take undue advantage of an inadvertent/ typographical mistake in the 1st Para of the said appointment letter (Annexure A-2) wherein it was mentioned that the offer is not for the post of Jr. Clerk cum Typist. The said anomaly was rectified by issuing a corrigendum subsequently and the applicant as per his own will and without any pulls and pressure or any protest joined the post of Trainee Technician Grade-III as per technical qualification.

15. The representation made by the applicant has been disposed of vide letter dated 24.11.2015. It is admitted fact that the consent was furnished by the applicant for the post of Tech. III in welder trade. It is also a fact that process had been done by the Head Quarter Bilaspur and no change can be done by their officer and if he has any compliant he can submit it to the Headquarter Bilaspur. The applicant submitted another representation dated Nil addressed to the General Manager, SECR, Bilaspur for change of post from

Trainee Tech Grade III to Jr. Clerk-cum-typist with Grade Pay Rs. 1900/-. In response to the said representation it has been informed vide letter dated 16.02.2016 that as per this office letter dated 31.08.2015 (Annexure R-4) it has been communicated that after approval of competent authority he has been allotted the post of Technician Grade III in Wagon Repair Shop/Raipur. A Copy of the letter dated 16.02.2016 is annexed as Annexure R-7 & R-8.

16. So in view of the above as the replying respondents has clearly stated that due to inadvertent mistake the applicant is trying to take undue advantage of typographical mistake which was rectified by issuing a corrigendum subsequently and the applicant as per his own will and without any pressure or any protest joined the post of Trainee Technician Grade-III. Further the allegation of pull and pressure put up by the respondents has not been proved by the applicant.

17. In view of the above position, we do not find any illegality in the impugned action of the respondent department. Resultantly, this Original Application is dismissed. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member

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(Navin Tandon)
Administrative Member