

GAHC010064172019



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Review.Pet./42/2023

MISS ENAMONI SAIKIA
D/O SAFIQUE ALI,
RESIDENT OF VILLAGE SARAIGHAT NAGAR,
JALUKBARI, PO PANDU, 781012,
PS JALUKBARI, DIST KAMRUP M ASSAM

-VERSUS-

1.THE NORTH EAST FRONTIER RAILWAY AND 3 ORS
REPRESENTED BY THE GENERAL MANAGER,
NF RAILWAY, MALIGAON, GUWAHATI 781011.

2:THE CHAIRMAN,
RAILWAY RECRUITMENT BOARD,
STATION ROAD, NF RAILWAY,
GUWAHATI 781011

3:THE ASSISTANT SECRETARY,
RAILWAY RECRUITMENT BOARD,
STATION ROAD, NF RAILWAY,
GUWAHATI 781011

4:THE CHIEF PERSONAL OFFICER,
NORTH EAST FRONTIER RAILWAY,
MALIGAON, GUWAHATI 7810

For the Review Petitioner/Applicant : Mr. S. Hazarika, Advocate.

For the Respondent(s) :

- B E F O R E -

HON'BLE THE CHIEF JUSTICE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

10.08.2023

[Sandeep Mehta, CJ]

Heard Mr. S. Hazarika, learned counsel representing the review petitioner/applicant and also perused the material available on record.

The instant application has been preferred by the review applicant seeking review of the judgment and final order dated 09.02.2018 passed by the Division Bench of this Court in WP(C) No.7411/2016 accepting the writ petition and setting aside the order dated 23.09.2016 passed by the Central Administrative Tribunal, Guwahati Bench in the Original Application No.240/2014 preferred by the applicant.

The brief facts relevant for disposal of the review application are noted hereinbelow.

The applicant herein applied for the post of Health and Malaria Inspector in pursuance of a recruitment process initiated by the respondent N.F. Railway against the Centralized Employment Notice No.05/2012, dated 13/10/2012. She claimed to be holding a diploma certificate issued from the Institute of Public Health & Hygiene, Mahipalpur. The authorities found that the said diploma certificate was not recognized by any institution as well as the Railway Board and thus, the review applicant's candidature was rejected. The applicant filed Original Application No.240/2014 before the Central Administrative Tribunal, Guwahati Bench which accepted the application by the judgment and order dated 23.09.2016 and directed the N.F. Railway to provisionally empanel the review applicant in the ongoing

recruitment process.

The said order passed by the CAT was assailed by the N.F. Railway by filing WP(C) No.7411/2016 which was accepted by the Division Bench vide order dated 09.02.2018 wherein, the finding and decision of the Tribunal regarding the issue of applicant possessing a diploma from an institute which was recognized as per the terms of the advertisement, was decided against the applicant (respondent in the writ petition).

The observations made by the Division Bench at para Nos.7 and 8 of the judgment under review are reproduced hereinbelow for the sake of ready reference:

“7. We respectfully disagree with the findings and decision of the Tribunal. The crux of the matter is whether the respondent possesses diploma from an institute which is recognized as per the terms of the Advertisement. Despite repeated opportunities, the counsel for the respondent could not furnish any documents whatsoever to substantiate that the Institute of Public Health & Hygiene, Mahipalpur, New Delhi is either recognized by the Central Government or by the Railway Board or, for that matter, by the Assam State Government/Bodies enacted by Act of Parliament or State Legislatures. This is an admitted position going to the root of the matter.

8. In the Advertisement itself it was clearly stipulated that candidates should have requisite qualifications from recognized University/Institute. The consequence of not fulfilling the requisite criteria was also clearly indicated. The fact that the respondent was without a diploma from a recognized Institute was known to the Railway authority only when it had conducted document verification as per the scheme of the selection. The Circular dated 18.03.2014 clarifying on the issue as to the status of the Institute from where the respondent had obtained diploma was only by way of clarification, which is squarely applicable in the instant case. The said clarification will relate back to the original terms and conditions as given in the Employment Notice dated 13.10.2012.”

Mr. S. Hazarika, learned counsel representing the review applicant, vehemently and fervently contended that there was no justification whatsoever for the Division Bench to have interfered with the judgment of the Tribunal because

the clarificatory circular dated 18.03.2014 issued by the Railway Board, whereby the certificate possessed by the review applicant was held to be not recognized, was issued in the year 2014 whereas the advertisement was issued in the month of October, 2012.

We feel that the said aspect of the matter has already been extensively dealt with by the Division Bench while deciding the writ petition, WP(C) No.7411/2016. In addition thereto, we may note that a Division Bench of Delhi High Court by the judgment dated 27.04.2005 passed in **WP(C) No.5396-98-2005 (*Rajendra Singh Negi & Ors. Vs. National Capital Territory*)** has concluded long back that a diploma/certificate issued from the Institute of Health and Hygiene, Mahipalpur, Delhi is not a valid certificate as the course is neither recognized by the Board of Technical Education nor by the AICTE.

Manifestly thus, the diploma/certificate held by the applicant was rightly discarded by the authorities of N.F. Railway as not conforming to the requirements of the advertisement.

The view taken by the Division Bench in accepting the writ petition, WP(C) No.7411/2016, preferred by the N.F. Railway and reversing the judgment of the CAT, does not suffer from any error apparent on the face of record so as to alter the same in exercise of review jurisdiction.

Hence, the review application fails and is dismissed, as being devoid of merit.

JUDGE

CHIEF JUSTICE

Comparing Assistant