

GAHC010071782020



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

Case No. : WP(C)/2202/2020

THE UNION OF INDIA AND 2 ORS
REP. BY THE GENERAL MANAGER NORTHEAST FRONTIER RAILWAY,
MALIGAON, GUWAHATI-781011

2: THE CHAIRMAN
RAILWAY RECRUITMENT BOARD
N.F. RAILWAY
STATION ROAD
MALIGAON
GUWAHATI-781011

3: THE DEPUTY CHIEF PERSONAL OFFICER (RECRUITMENT)
RAILWAY RECRUITMENT CELL
N.F. RAILWAY
STATION ROAD
MALIGAON
GUWAHATI-78101

VERSUS

SMTI. REWATI KUMARI AND ANR
D/O JAGDAMB PRASAD, R/O FCI GATE, MOFFARGANJ, P.O. KATIHAR, PIN-
854105, DIST. KATIHAR BIHAR

2: THE SECRETARY
BIHAR SANSKRIT SHIKSHA BOARD 17 BACK
HARDING ROAD
PATNA
PIN-800001(BIHAR)

Advocate for the Petitioner : MR D K DEY

Advocate for the Respondent : MR. S BORA

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

JUDGMENT

22.06.2023

(M. Zothankhuma, J)

Heard Mr. D.K. Dey, learned Standing Counsel for the Railways and Mr. S. Bora, learned counsel for the respondent No. 1. No one appears for the respondent No. 2.

2. This writ petition has been filed against the order dated 19.11.2019 passed by the Central Administrative Tribunal, Guwahati Bench in Original Application No. 040/00027/2015, by which the Railway authorities were directed to process and finalize the appointment of the respondent No. 1 in a Group-D post against Employment Notice No. 1/2008(Group-D), as the respondent No. 1 had already been selected earlier.

3. The facts of the case is that pursuant to an Employment Notice No. 1/2008(Group-D) inviting applications to fill up Group-D posts, the applicant took part in the selection process. After passing the Physical Efficiency Test (PET) and the written examination, the respondent No. 1 was called for document verification. However, during document verification, the candidature of the respondent No. 1 was disqualified, on the ground that the at the time of submission of her application, the respondent No. 1 had submitted the Class-X marksheet No. 3452 dated 09.07.2004, which showed she had secured 2nd Division. However, during document verification, the respondent No. 1 had produced marksheet

bearing No. 3410 dated 26.09.2012, showing that the respondent No. 1 had secured 1st Division. As the subsequent marksheet bearing No. 3410 dated 26.09.2012 was disputed by the writ petitioners, the candidature of the respondent No. 1 was disqualified. Aggrieved by the action of the writ petitioners, the respondent No. 1 filed O.A No. 040/00027/2015 before the learned Tribunal. In view of the marksheet bearing No. 3410 dated 26.09.2012 produced by the respondent No. 1 at the time of document verification, being different from the marksheet produced at the time of submission of her application, the learned Tribunal impleaded the Secretary, Bihar Sanskrit Shiksha Board in the case before the learned Tribunal, to clarify the issue. The Secretary, Bihar Sanskrit Shiksha Board submitted a letter dated 12.06.2019 stating that they had verified the marksheet bearing No. 3410 dated 26.09.2012 and found the same to be genuine. As the respondent No. 1 was found to have qualified in the Physical Efficiency Test (PET) and in the written test, besides the marksheet bearing No. 3410 dated 26.09.2012 having found to be genuine, the learned Tribunal directed the writ petitioners to process and finalize the appointment of the respondent No. 1 in Group-D post in pursuant to Employment Notice dated 1/2008(Group-D) within a period of two (2) months as she had already been selected.

4. The learned counsel for the writ petitioners submits that if the petitioners come to a finding that the marksheet bearing No. 3410 dated 26.09.2012 is a fabricated document, they may be given the liberty to take action on the basis of the same.

5. Mr. S. Bora, learned counsel for the respondent No. 1 submits that the

entire controversy started due to the Bihar Sanskrit Shiksha Board having given the respondent No. 1 the wrong marksheet bearing No. 2452 dated 09.07.2004, showing the respondent No. 1 as having secured 2nd Division in the Class-X examination. However, on the respondent No. 1 receiving the pass certificate in the year 2012, which is different from the marksheet, the respondent No. 1 came to learn that she had in fact secured 1st Division and not 2nd Division. Due to the mistake committed by the Bihar Sanskrit Shiksha Board, the respondent No. 1 was furnished the correct marksheet bearing No. 3410 dated 26.09.2012, showing that she had secured 1st Division in the Class-X marksheet. He accordingly submits that the respondent No. 1 should not be penalized for the mistake committed by the Bihar Sanskrit Shiksha Board.

6. On considering the facts of the case, we are unable to understand as to how any prejudice would be caused to the writ petitioners, by the respondent No. 1 furnishing her the correct marksheet, which is in consonance with the pass certificate issued to her. The fact that the marksheet bearing No. 3452 dated 09.07.2004 was mistakenly given to the respondent No. 1 should not be used against the respondent No. 1, while in fact she had secured a better position as per her correct marksheet.

7. In view of the reasons stated above, we do not find any ground to interfere with the impugned order dated 19.11.2019 passed by the learned Tribunal in O.A No. 040/00027/2015. Needless to add that if the marksheet bearing No. 3410 dated 26.09.2012 is found to be false in the future, the writ petitioners can take action on the same, as per law.

8. Writ petition is accordingly dismissed.

JUDGE

JUDGE

Comparing Assistant