

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2015

Coram :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

W.P.No.1133 of 2015

P.Duraisamy

... Petitioner

vs.

1. The Hon'ble Central Administrative Tribunal, Madras Bench
Madras 600 104.
2. Union of India
rep.by the General Manager
Southern Railway
Egmore, Chennai 600 008.
3. The Deputy Chief Personnel Officer/
Recruitment, Railway Recruitment Cell
No.5, Dr.P.V.Cherian Crescent Road
Behind Ethiraj Women's College
Egmore, Chennai 600 008.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in respect of the impugned order of the Tribunal in O.A.No.669 of 2013 dated 11.11.2014; to quash the same and to direct the second and third respondents to recruit the petitioner herein to Group-D post in the Railway Department.

For Petitioner : Mr.P.Wesley Isaac

For Respondents : Mr.V.G.Suresh Kumar for RR2 and 3
R1-Tribunal

ORDER

(Order of the Court was made by V.RAMASUBRAMANIAN, J.)

The writ petition arises out of the dismissal of an application filed by the petitioner before the Central Administrative Tribunal seeking a direction to appoint him to Group-D post in the respondent-Railways Department.

2. Heard Mr.P.Wesley Isaac, learned counsel for the petitioner and Mr.V.G.Suresh Kumar, learned counsel for the respondent-Railways.

3. Pursuant to a Notification for recruitment, issued by the respondents to fill up Group-D posts in the Southern Railway, the petitioner applied. He was called for a written examination conducted in October 2011; but even before getting short listed in the written examination, the petitioner has also passed the Physical Efficiency Test.

4. Therefore, he was called for Certificate Verification on 06.01.2012. At that time, the left thumb impression of the petitioner, as found in the call letter for Physical Efficiency Test, call letter for written examination, O.M.R. Answer sheet and the application form were analysed by a finger print expert. He gave an opinion that the left thumb impression found on the call letters as well as the OMR sheet was that of the petitioner and that the left thumb impression found in the application form was not that of the petitioner. Therefore, the petitioner was not issued with an appointment order.

5. Aggrieved by the refusal of the respondents to appoint him, the petitioner issued a legal notice on 03.08.2012 and filed a writ petition in W.P.No.2794 of 2013. The said writ petition was dismissed by an order dated 05.02.2013 with liberty to the petitioner to approach the Central Administrative Tribunal.

6. Accordingly, the petitioner filed an application in O.A.No.669 of 2013. This application was dismissed by the Tribunal by an order dated 11.11.2014. Aggrieved by the said order, the petitioner is before this Court.

7. The contention of Mr.P.Wesley Isaac, the learned counsel for the petitioner is that the petitioner was not guilty of any impersonation as alleged by the respondents and that in all the forms such as application form, the call letter for Physical Efficiency Test and the call letter for interview, it was his photograph that found a place. Therefore, the learned counsel contended that on the basis of the opinion of a finger print expert and on the basis of a statement obtained by him forcibly, the respondents cannot deprive the petitioner of his valuable right.

8. We have carefully considered the above submissions.

9. It is no doubt true that the application form submitted by the petitioner contained his photograph. But the question that was examined by the respondents was as to whether the signatures found and the left thumb impression found in the application were that of the petitioner at all. This fact, upon verification by the finger print expert, became a huge question mark. This is why, the respondents have made the allegation of impersonation, after finding that the left thumb impression found in the application did not tally with the left thumb impression found in the subsequent forms.

10. No motive can be attributed either to the respondents or to the finger print expert. As a matter of fact, the petitioner had given a letter on 06.01.2012, stating that he did not record his left thumb impression at the time when he applied for the post. After seven months' of giving such a letter, the petitioner issued a legal notice dated 03.08.2012. In the legal notice, he claimed that the respondents threatened him and got his signatures in four empty white papers. In other words, it was his contention in the legal notice that he signed four empty white papers under coercion.

11. But in the application before the Tribunal and in the affidavit in support of the writ petition, the petitioner claimed that under threat, he gave a letter dated 06.01.2012. The said submission, do not go with the stand taken in the legal notice.

12. Moreover, in para Nos.7 and 14 of the affidavit in support of the writ petition, the petitioner has indirectly admitted that either he did not affix his left thumb impression properly or over affixed the left thumb impression on the application, that resulted in variation. He has taken a stand in para No.14 that it was a small lapse and that it cannot be treated as a crime. Therefore, the Tribunal had necessarily to come to the conclusion that the rejection of the candidature of the petitioner cannot be found fault with.

13. As a matter of fact, the case of the petitioner was not the only one. Several applications have been rejected on the very same score on the basis of the opinion given by the very same hand writing expert. One of those candidates similarly placed as that of the petitioner unsuccessfully challenged the rejection of his candidature before the Tribunal and the same has also been upheld by a Division Bench of this Court in W.P.No.3371 of 2011.

14. Therefore, we find no reason to interfere with the order of the Tribunal. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vj2

To

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3. The Deputy Chief Personnel Officer/
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+1cc to Mr.P.Wesley Isaac, Advocate, S.R.No.15501
+1cc to Mr.V.G.Suresh Kumar, Advocate, S.R.No.15729

सत्यमेव जयते

W.P.No.1133 of 2015

KK(CO)
CA(31/03/2015)

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