

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11593 OF 2014

Shri. Bijay Kumar Babu Lal Paswan .. Petitioner
Vs.
The Union of India and anr. .. Respondents.

Mr. P.H. Padave for the Petitioners.

**CORAM: D.H. WAGHELA, C.J. AND
M.S.SONAK, J.
DATE : 7th MARCH 2016.**

P.C.:

1] Heard learned counsel for the petitioner and perused the record.

2] The petitioner challenges the judgment and order dated 10 April 2014 made by the Central Administrative Tribunal, Bombay Bench (CAT) dismissing his Original Application No. 55 of 2011.

3] The petitioner had enrolled for the Vocational Course on Railway Commercial (for short "VCRC") at the plus two level from the academic session 2001-2002. In terms of the VCRC, the

candidates, who qualify at the written test were eligible to *inter alia* secure direct recruitment as Commercial Clerk/Ticket Clerk in the Indian Railways. Prior to year 2004 only two attempts were allowed to a candidate, to qualify. However, by the Railway Board's Circulars dated 1 January 2004 and 10 December 2004, this facility was extended upto four and six attempts respectively. The CAT has declined the relief to the petitioner by concluding that the petitioner has, in all, availed benefit of seven attempts. Further, the Railway Board, with effect from 4 March 2005 has discontinued the VCRC and directed that the recruitment to the posts of Commercial Clerk/Ticket Collector may be undertaken through normal RRB Channel.

4] Mr. P.H. Padave, the learned counsel for the petitioner, has submitted that factually, the petitioner cleared the written test in less than six attempts and therefore, was entitled to benefit of Railway Board's Circulars dated 1 January 2004 and 10 December 2004. Further, Mr. Padave submitted that benefit of VCRC has been extended to some candidates, even beyond March 2005. By relying upon certain decisions of the CAT itself, the learned

counsel for the petitioner contended that the impugned judgment and order, to the extent the same has denied the petitioner any reliefs, warrants interference under Articles 226 and 227 of the Constitution of India.

5] Upon due consideration of the aforesaid contentions as well as the record, it is not possible to accept the petitioner's contention that he had cleared the written test in less than six attempts. The CAT, upon due appreciation of the Circulars has rightly held that in computing the number of attempts, the petitioner, cannot exclude the attempts which he could not avail on account of the petitioner failing in more than one subject or failing to clear the internal assessments. Thus construed, the record does bear out that the petitioner has availed more than six attempts to clear the written test. The petitioner was, therefore, not entitled to direct recruitment in terms of VCRC Scheme.

6] Even if the interpretation suggested by the petitioner in the matter of computation of attempts is to be accepted, admittedly, the petitioner cleared the written test in March 2006.

As noted earlier, VCRC Scheme was discontinued from March 2005. This is yet another reason why the petitioner cannot insist upon direct recruitment under VCRC Scheme. The decisions of Calcutta and Patna Bench of CAT, have been rightly distinguished particularly as cause of action therein, had accrued prior to discontinuance of the VCRC Scheme. In the present case, since the petitioner cleared the test in March 2006, the cause of action, if any, for claiming benefit of VCRC Scheme arose for the first time only after March 2006, by which time, however, the VCRC Scheme had already been discontinued since March 2005. There is no error in the reasoning of the CAT.

7] The CAT has also rightly non-suited the petitioner on the ground of limitation. The cause of action, if any, accrued to the petitioner on 15 September 2006, when the petitioner's representation was rejected by the respondents. In terms of Section 21 of the Administrative Tribunal Act, 1985, the petitioner was required to institute his original application within a period of one year from the date of accrual of cause of action, i.e., on or before 14 September 2007. However, the petitioner, instituted

original application only in the year 2008 and that too before the Patna Bench, which lacked territorial jurisdiction. The petitioner, cannot claim benefit of the delay condonation order made by the Patna Bench of CAT, once, it is held by the very Bench that it lacked territorial jurisdiction to entertain the original application.

8] For all the aforesaid reasons, there is no case made out to interfere with the impugned judgment and order made by the CAT. This petition is therefore, dismissed. There shall, however, be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)