

01.05.2017 learned counsel for the petitioners-East Coast Railway and learned counsel for opposite party no.1.

2. The petitioners-East Coast Railway have filed this Writ Petition challenging the order dated 12.01.2017 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.526 of 2013.

3. Learned counsel for the petitioners-East Coast Railway submitted that the impugned order need be interfered with as the Tribunal has not taken into consideration the decision referred to by the petitioners in Civil Appeal No.9388 of 2014 arising out of S.L.P (C) No.706 of 2014 wherein the Apex Court taking into consideration the conditions mandate mentioned in the employment notice i.e. Condition No.8.7 (i) held that it was always open to the competent authority to reject such application being incomplete. He further submitted that the application of opposite party no.1 was inadvertently overlooked to be a defective one and such defective participation in the written examination would not give him a vested right to be offered employment. He further submitted that any defect in the application would automatically debar the candidate from getting the right to claim employment.

4. Learned counsel for opposite party no.1 however, supported the impugned order and submitted that the Tribunal has taken into consideration the advertisement issued by the authorities on 28.10.2006 and found that the mistake is curable as the instruction given in the said advertisement is not sufficient due to shortage of space in the box and the name of opposite party no.1 is a longer one. He further submitted that after issuance of call letter for

appearing in the written examination and Physical Efficiency Test, the authorities are estopped to cancel the candidature after the selection process was started. He also submitted that the name of the applicant being very long, the same could not be placed in the box provided as the space was very short to accommodate full name of the applicant. Therefore, the signature at all the places in the application form were made in the same way like the signature put in the box. Hence, the impugned order need not be interfered with.

5. Opposite party no.1 has filed the aforesaid Original Application before the Tribunal contending inter alia that an advertisement was issued by the Dy. Chief Personnel Officer (Recruitment), Railway Recruitment Cell, East Coast Railway on 28.10.2006 for filling up of the posts of Junior Trackmen and Helper-II. In pursuance of the said advertisement, opposite party no.1 has submitted his application and a call letter was issued to him to appear in the written test examination. He has appeared in the said examination on 23.09.2007 and thereafter undergone a Physical Efficiency Test on 27.03.2008.

6. While matter stood thus, the Dy. Chief Personnel Officer, In-charge (Recruitment) sent a letter on 24.07.2012 to opposite party no.1 stating therein that on verification of his application a defect was noticed i.e. application without full signature in the box provided below the space for pasted photograph. In view of para-15 of the employment notification, applications with the above deficiencies need to be rejected, therefore, he was given an opportunity in writing as to why his candidature should not be

cancelled. Being aggrieved opposite party no.1 approached the Tribunal in O.A. No.1056 of 2012. The Tribunal by order dated 08.01.2013 disposed of the Original Application giving liberty to opposite party no.1 to submit his reply to the show cause notice within a period of 15 days from the date of receipt of the copy of that order and petitioner no.3 was directed to consider the same and communicate the decision thereon by a reasoned and speaking order within a period of 45 days from the date when his reply would be received. Accordingly, opposite party no.1 submitted his reply on 30.01.2013 before petitioner no.3 taking a stand that he had put his short signature below the photograph due to shortage of space for which he should not be penalized. It is further stated that he has received the letter dated 24.07.2012 in the month of December, 2012 for which he could not give his reply in time. The specimen signature was already verified by the authorities at the time of written examination and Physical Efficiency Test and no discrepancy was noticed by them, therefore, the objection raised by the authorities is arbitrary. Considering the show cause filed by opposite party no.1, the authorities by letter dated 21.02.2013 rejected his candidature for which he has filed O.A. No.526 of 2013.

7. The petitioners before the Tribunal filed their counter affidavit admitting the factua

l submission made by opposite party no.1. It was contended that opposite party no.1 appeared in written test on 23.09.2007 and then Physical Efficiency Test conducted during the period from 24.03.2008 to 06.04.2008. The application forms of the candidates were subjected to scrutiny at different stages during the selection process and during scrutiny. Opposite

party no.1 had put his short signature below the pasted photograph in the application form and signatures were in short form instead of full signatures as essential as per the terms of the notification dated 28.10.2006.

8. The Tribunal after hearing the parties and examining the materials available on record, came to a finding that the defect detected at a later stage would not be considered serious enough to debar a candidate from being appointed if he has been selected on the basis of his merit and passed through different stages of scrutiny by the competent authority. The Tribunal also found the name of the applicant is very long and the full signature cannot be accommodated in the small box provided. Nothing has been indicated in the application form and no instruction has been reflected therein, in such a case what remedy is available to the applicant. With the aforesaid finding, the Tribunal by the impugned order directed the petitioners to issue an offer of appointment to opposite party no.1, if, he has been selected as per merit within a period of ninety days from the date of the order.

9. Considering the rival submission of the parties and after going through the materials available on record, it reveals that the name of the applicant being so long is not to be adjusted in the box provided in the application form. The application of opposite party no.1 was rooted through the Screening Committee and the same was not rejected at the time of screening. He was allowed to appear in the written examination as well as Physical Efficiency Test. There is no stipulation in the notification that in case the letters exceed the box provided in the application form, what will

be the consequences. Since the Tribunal has passed a reasoned order and as there is no error apparent on the face of the record, this Court is not inclined to interfere with the same in exercise of the jurisdiction under Article 227 of the Constitution of India.

The Writ Petition is accordingly dismissed.

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S.Panda, J.

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S.N.Prasad, J.