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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11892/2016 & CM 46858/2016

UNION OF INDIA & ANR

..... Petitioners

Through: Mr. R.V. Sinha, Advocate

versus

GIRIRAJ PRASAD MEENA

..... Respondent

Through: None

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MR. JUSTICE CHANDER SHEKHAR**

**ORDER**

% **15.03.2017**

Union of India, through the General Manager, Northern Railway and

the Chairman, Railway Recruitment Cell, Northern Railway, by this writ petition impugn the order dated 13.7.2015 passed by the Principal Bench of the Central Administrative Tribunal ('Tribunal'), New Delhi, whereby OA No.3443/2014 filed by the respondent, Giriraj Prasad Meena, has been allowed. The petitioners also impugn the order dated 8.1.2016 by which review application, RA No.270/2015, has been dismissed.

2. The respondent, a physically handicapped candidate, had applied for selection/appointment to the Group 'D' posts in the Northern Railways. He had appeared in the written examination held on 24.6.2012 and having qualified was called for document verification and medical examination on 19.9.2012 and 20.9.2012, respectively. He was declared medically fit.

However, no appointment letter was issued to him, whereas other selected candidates were appointed. The respondent made representations and was informed about disqualification on the ground that he had put different signatures in the Application Form and the OMR Sheet.

3. The Tribunal had called for and examined the original application form as well as the OMR Sheet. The Tribunal has recorded the following reasons in the order dated 13.7.2015, to allow the OA No.3443/2014:

*“4. In our opinion, the Instructions of the respondents themselves are quite confusing. First in the application form there is a column “signature of the applicant”. It does not specify whether the signature has to be in Hindi or English. Evidently, both are acceptable as the applicant’s candidature had not been rejected for signing in Hindi. Thereafter, we notice that in the admit card there are two columns, one requiring the candidate to sign in Hindi and the other requiring the candidate to sign in English. It has not been specified as to whether both signatures are required or whether the candidate has to sign in the same language in which he has signed in his application form. The manner in which these columns appear in the admit card give the impression that the candidate is required to sign both in Hindi as well as in English. Thereafter, in the OMR sheet, there is only one column requiring candidate’s signature. Again it is not specified whether the*

*signatures are required in Hindi or in English. The respondents expect the candidates to remember in what language they have signed in their application form and use the same language in the OMR sheet. However, in between the admit card creates confusion since it provides for signature in both. Therefore, if a candidate unfortunately does not remember in what language he has signed in the application form, his candidature is likely to be rejected. In our opinion, this is grossly unfair to the candidates. We also do not agree with the respondents that the applicant has put different signature at different places. In fact, in this case in the application form he had signed in Hindi while in his OMR sheet he has signed in English. Since the respondents accept signature in both languages they cannot claim that he has signed differently at different places. He has in fact only signed in different languages. This is distinct from signing differently in the same language which could give rise to suspicion of impersonation.*

*5. As far as putting the signature in capital letters was concerned, learned counsel for the applicant had relied on the judgment of Hon'ble High Court in the case of Neeraj Kumar (supra) holding that rejecting of candidature on this ground was not sustainable. We find that this case is squarely covered by the aforesaid judgment.*

*6. Thus, we are of the view that the applicant's candidature can neither be rejected for signing differently at different places nor for signing in English in capital letters. We, therefore, allow*

*this O.A. and quash the impugned order dated 12.06.2014. The respondents are directed not to reject the candidature of the applicant on the ground of putting different signature at different places or for signing in capital letters. His case for appointment may be processed accordingly. In case, he is otherwise eligible, he shall be appointed with consequential benefits of pay fixation and seniority. This exercise shall be completed within a period of eight weeks from the date of receipt of a certified copy of this order. No costs.”*

4. We have also examined the photocopy of the application form placed on record, in which the respondent had given choice of language in the Written Examination as Hindi. This application form was filled-up by the respondent, both in English and Hindi and was signed by the respondent in Hindi. The respondent had duly filled the Admit Card along with an attached photograph. The Admit Card required the candidates to sign both in English and Hindi in the respective columns. The respondent had signed both in English and Hindi. His Hindi signature tally with that on the application form and there is no dispute about the same. The respondent had also affixed his left thumb impression in the application form as well as on the Admit Card as required. There is no dispute to this extent either.

5. The respondent had answered and marked the OMR Sheet. His left thumb impression and signature in English were duly certified by the

Examiner present.

6. The Tribunal in the impugned order has pointed and referred to the ambiguity and lack of clarity in the Instructions given to the candidates. These lapses had led to the difficulty. In an almost identical situation, a Division Bench of this Court in WP(C) No.9941/2015 titled ***Union of India & Anr. v. Rahul Kumar***, decided on 8.2.2016, had dismissed the writ petition, pointing out that there were lapses or defects in the Instructions and for this, the respondent/candidate should not suffer. In ***Rahul Kumar*** (supra), the snapshot of the relevant boxes was reproduced to highlight and show that the relevant columns of the OMR Sheet were the cause of confusion.

7. In the present case, we find that the OMR Sheet and the Answer Sheet did not state that the candidate must not sign in capital letters or that the signature must tally with the signature given in the application form, or if the candidate has signed the application form in Hindi, the signature in the OMR sheet should be in Hindi. Moreover, the Admit Card had required the candidate to sign both in English and Hindi. This being the position, the benefit in case of ambiguity and confusion should be given to the respondent.

8. In order to rule out any possibility of impersonation, we had, vide order dated 21.12.2016, asked the petitioners to file an affidavit, stating whether they have examined and compared the thumb impressions on the application form and the OMR sheet. If they have not examined the thumb impressions, the said exercise should be undertaken. The writ petition was adjourned to 31.1.2017. On the said date, another opportunity was granted to the petitioners to comply with the order dated 21.12.2016, making it clear that in case of non-compliance, the writ petition would be dismissed. Learned counsel for the petitioners states that the petitioners are not ready and willing to examine and compare the thumb impressions given in the Application Form and in the OMR Sheet/Admit Card.

9. In these circumstances, we do not find that the petitioner is entitled to succeed. The writ petition is dismissed. The pending application is also dismissed.

**SANJIV KHANNA, J**

**CHANDER SHEKHAR, J**

**MARCH 15, 2017**

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