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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7598-2017 (O/M)
Reserved on : 12.3.2019
Date of decision : 14.3.2019

Naveen Kumar

..... Petitioner (s)

Versus

Central Administrative Tribunal, Chandigarh Bench, Chandigarh and others
..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Surender Lamba, Advocate,
for petitioner.

Mr. P.C. Goyal, Advocate, with,
Ms. Aarti Goyal, Advocate,
for respondents No. 2 to 4.

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KULDIP SINGH, J.

Petitioner has sought quashing of impugned dated 23.11.2016 (Annexure-P-1), passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh, (hereinafter referred to as 'the Tribunal'), vide which his application seeking appointment to Group 'D' post, after setting aside orders (Annexure-A-6 and Annexure-A-7) was dismissed.

The short facts, which are required to be noticed, are that in response to advertisement issued by Railway Recruitment Cell, for filling up 5679 posts of Group 'D' in the pay band of Rs. 5200-20200 with grade pay of Rs. 1800/-, applicant-petitioner Naveen Kumar son of Multan Singh, applied for said post. He appeared in the written examination on

9.11.2014 against Roll No. 200200549. He passed the written examination.

He was also declared successful in physical efficiency test. He was called for verification of documents on 4.8.2015 and for medical examination on 5.8.2015, which he passed. However, his candidature was rejected on the ground of mis-match in hand writing/signatures on the relevant papers i.e. application form, OMR sheet, document verification papers etc. The plea for setting aside said order failed before the Tribunal.

We have heard the learned counsel for parties and have also carefully gone through case file.

The learned counsel for respondent department has relied upon condition No. 5.16 of advertisement, which is reproduced below, to press that the candidate should fill in the application form in his own hand writing, otherwise, his application will be rejected :-

'5.16 The candidate should copy the declaration at column No. 15 of the application form in his/her own running handwriting. Otherwise, their applications will be rejected.'

The plea of respondent department is that hand writing/signature of applicant-petitioner on application form, OMR sheet and document verification data mis-matched. Therefore, his candidature was rejected. While noticing that purpose of said condition was to see that there is no impersonation at the time of examination, this Court passed the detailed order on 20.4.2018. The operative part is as under :-

“We have heard learned counsel for the parties and have had the benefit of access to the report of experts relied upon by the respondents to oust the petitioner from the process of selection. The record contains the application form, the OMR sheets and also all subsequent documents which were relevant to the examination process bearing the signature of the

petitioner as also the thumb impressions. The Hand Writing expert opined as follows :-

OPINION

- '1. The red enclosed writings and signatures marked A1, A2, A3, A4 and A4/1 were all written by one and the same person.*
- 2. The person who wrote the red enclosed writing and signature marked A3 did not write the red enclosed writing marked A1/1.'*

On examining the record, we find that A-1/1 is the declaration contained in the application form or the information supplied in the form being correct as per knowledge. A-3 is the similar declaration made in another form during the course of examination on the document verification form.

This reflects a deviation in the hand writing. Declaration made in the application form and the one made during examination in the document verification form but to our minds the respondents had access to a more certain verifiable material to establish the identity of the person appearing in the examination. The thumb impressions on the application form, OMR sheets, the documents verification form, the result of the medical before a doctor were never got examined from the expert. We cannot find fault with the report of the expert as he had to respond to the limited queries put to him. The respondents by placing reliance on the Experts report drew an inference of impersonation which to our minds was a serious error as it was not established conclusively by impersonation during an examination is a serious matter and if the conclusion is merely to be arrived at an assumption or an inference without conclusive verifiable information it can have serious repercussions affecting the prospects of an aspirant adversely. It was thus imperative for the respondents to have conclusively established this fact before they formed such an opinion. Merely because the declaration in the application form was at variance with the hand writing during the subsequent

documents would ipso facto would not lead to such a conclusion particularly when more authentic verifiable information such as signatures and thumb impression were available with the respondents that ought to have been verified from the Expert.

We are thus confronted with the situation where even if we set aside the impugned order of the Tribunal as also the order of rejection passed by the respondents for the reasons that we have mentioned above, it would still lead us into the same trap of relying on unverifiable data to conclude in favour of the petitioner. In these circumstances, we direct the respondents to get the thumb impressions on the application form and the subsequent documents during the course of examination, verified and place the report on record.”

Now, verification report has been filed regarding comparison of thumb impressions of applicant-petitioner which were luckily taken on application form, OMR sheet and other documents, meaning thereby that in addition to signatures, thumb impressions of applicant-petitioners were also taken. Extracts of verification report are reproduced as under :-

' Disputed (LTI) Q1 Mark of Navin Kumar son of Sh. Multan Singh, Roll No. 200200549, its comparative inquiry with sample print (LTI) S1, S2, S3 has been found correct, meaning thereby the thumb impression is of the same person.

On the basis of above fact, it is concluded that in the verification, expected disputed print regarding the abovesaid candidate has been found correct. Kindly appropriate action be taken as per Rules.'

It goes to show that thumb impressions of applicant-petitioner matched with the application form, OMR sheet and other documents, meaning thereby that applicant-petitioner is same person, who filled up the application form with his own hand writing, and appeared in said

examination and appeared at the time of scrutiny of documents also.

Admittedly, the science of hand writing is weak science, whereas science of finger print is perfect science. Therefore, in case, there is choice between opinion of hand writing expert and opinion of finger print expert, opinion of finger print is safe to be relied upon. Since, in this case, thumb impressions of petitioner on application form, OMR sheet and subsequent documents have matched with his specimen thumb impressions, therefore, it is to be held that applicant-petitioner is same person, who appeared in examination.

Consequently, orders of respondents (Annexure-P-6 and Annexure-P-7), rejecting the candidature of applicant-petitioner on the ground of mis-match of hand writing/signatures with various documents, are hereby quashed. Consequently, petition is allowed. Since, it is not disputed that applicant-petitioner was a successful candidate, respondents are directed to complete all formalities for his appointment and consequently issue him appointment letter, as per result declared by them, considering that as a result of comparison of thumb impressions, he is same person, who had applied for Group 'D' post and was successful in same. The said order be complied with within four weeks from the date of receipt of certified copy of this order. Parties are left to bear their own costs.

(RAJIV SHARMA)
JUDGE

(KULDIP SINGH)
JUDGE

14.3.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No