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

Date of decision: 22.04.2019

+ W.P.(C) 13258/2018 & CM APPLN. 51575/2018

RANJIT KUMAR GUPTA Petitioner

Through Mr.Arpit Bhargava, Adv. with
Ms.Hina Bhargava & Mr.Varun
Talwar, Adv.

versus

UNION OF INDIA & ANR Respondents
Through Mr.J.K. Singh, Standing counsel with
Mr.Harsh Pandit, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. Vide the present petition, the petitioner seeks direction thereby directing respondent no.1 to implement guidelines being RBE No.138/2014 dated 10.12.2014 in letter and spirit.
2. Further seeks direction to set aside the order dated 07.06.2018 passed by respondent no.2 in violation of mandatory guidelines of respondent no.1. Consequently, directing respondent no.2 to issue call letter in terms of RBE No.138/2014 in second block date and appoint petitioner in terms thereof.
3. The facts of the present case are that the petitioner belongs to Other

Backward Class (OBC) and is a disabled person with 100% visual impairment which is evident from the certificate dated 12.02.2014 issued by All India Institute of Medical Sciences (AIIMS) to the petitioner. Respondent no.1 issued guidelines dated 10.12.2014 on open market recruitment to posts in Pay Band-1 (Grade Pay of ₹ 1800) which stipulates that a candidate will be given two block dates to complete procedure of appointment. Accordingly, on 25.02.2016, the petitioner appeared in examination organized by respondent no.2 for Group 'D' cadre for Eastern Railways. Though the petitioner was successful candidate with 57.28 marks, the petitioner wrote to RRC, Delhi for rechecking of his marks. Since no reply was received, the petitioner filed RTI on 18.07.2016 against which till date no reply is received from RRC, Delhi.

4. Further case of the petitioner is that the first block date i.e. 27.06.2016 of the document verification, 151 candidates were called for document verification organised on 27.06.2016, 28.06.2016 and 29.06.2016. As only 14 candidates reported to RRC/ER and 67 candidates were absentees, accordingly, a notification was published in newspapers on 21.07.2016 for absentees of the first block date. Notification was also published on 02.08.2016 for second block date of documents verification to be held on

12.08.2016 wherein it was mentioned that call letter can be downloaded only from the website of respondent no.2 and is must for appearing for document verification. On 12.08.2016, call letter for verification of documents uploaded on website by respondent no.2 asking to appear on 12.08.2016 itself at Kolkata. With lot of difficulty, the petitioner reaches Kolkata on 18.08.2016 but was turned down by respondent no.2 and was not given second block date in violation of guidelines of respondent no.1. Thereafter, the petitioner approached the Chief Commissioner for persons with Disabilities against respondent no.2 for not communicating to him regarding document verification well in advance and for not granting him second block date in violation of RBE No.138/2014 notification.

5. Vide order dated 06.11.2017, the complaint of the petitioner was dismissed by the court of Chief Commissioner for persons with Disabilities despite admitting to the fact of prima facie violation of rights of the petitioner who is a disabled person with 100% visual impairment. It was also stated in the said order dated 06.11.2017, no other mode of communication except uploading of communication on the website for informing about call letter is adopted by respondent no.2.

6. The grievance of the petitioner is that the petitioner was not given

even one chance for the document verification because he received call letter dated 12.08.2016 whereby the petitioner was directed to appear on the said date itself, which was not possible by any mode, for the document verification.

7. Counsel appearing on behalf of the petitioner submits that even if it is assumed that such letter was uploaded on 02.08.2016 then as per the communication of the respondents dated 20.12.2016, the petitioner was one of the 39th fresh candidates who were called for document verification scheduled on 12.08.2016. Thus, the petitioner is entitled one more chance to appear for documents verification in compliance with RBE guidelines dated 10.12.2014.

8. The respondents have filed counter affidavit whereby admitted that in terms of instructions contained in Railway Board's letter No. E(RRB)/2008/25/10 dated 25.07.2008, document verification (DV) of the eligible qualified candidates was conducted in the ratio of 1:1.3 as against notified vacancies. It is further admitted that as per the laid down procedure, the first DV for all 151 eligible candidates was planned between 27.06.2016 to 29.06.2016 at RRC/ER/Kolkata's office. The candidates were notified about the 1st block date for DV through notice on RRC/ER's website for

which e-mail was sent to the conducting agency on 09.06.2016 with the clear indication to online dispatch of call letters latest by 13.06.2016 i.e. keeping a gap of 14 days.

9. It is also admitted that 67 absentees, an indicative reminder notice was issued by RRC/ER in the leading newspapers as well as web upload was done on 21.07.2016. Among these 67 absentees, only 14 candidates reported to RRC/ER.

10. It is further stated in the counter affidavit that since total 116 vacancies were indented by RRC/ER, hence, 151 candidates as per merit were called for DV. The name of the petitioner did not appear in the list of 151 eligible candidates who were called for DV in the ratio of 1:1.3 as against notified vacancies as per merit order.

11. Learned counsel appearing on behalf of the respondents submits that since the number of absentees was huge in the special recruitment drive for PWD candidates, which was done in pursuance of the order of Hon'ble Supreme Court, an opportunity was further given to the extra candidates who were successful in the written test, but were below in the merit order as a special consideration. The target date for finalization of SRD had been exceeded and only as a special consideration, some extra candidates were

called for first time DV against absentees and there was no provision for any such second DV to be followed for such cases.

12. The fact remains that RBE guidelines dated 10.12.2014 is as under:

“(iii) Document verification be held in terms of instructions contained in para 7.9 of Annexure-I of RBE No.121/2005 in such a manner that a candidate appearing for the same may be given 02(two) block dates on which a candidate can get this procedure done. The two block dates shall have a minimum gap of 02(two) weeks. This may be implemented in recruitment exercise with respect notification issued in 2013 and thereafter.”

13. The selection process in question was initiated pursuant to the directions passed by the Hon’ble Supreme Court and for physically challenged candidates even though the RBE guidelines dated 10.12.2014 is applicable. The respondents have failed to establish that the petitioner failed to appear in the first and second DV dates but the case of the respondents is that on 02.08.2016, first date of verification on the website was uploaded to appear on 12.08.2016. however, petitioner failed to appear.

14. Annexure P-7 which is at page 46 depicts that vide said letter, the petitioner was asked to appear in person on 12.08.2016 at 15:00 p.m. for verification of documents at Kolkata. Even if it is assumed, that was the

first chance to the petitioner and he received before time and failed to appear in the document verification still as per the guidelines noted above, the petitioner is entitled to second chance for document verification which in any way has not been granted to the petitioner.

15. Accordingly, I hereby set aside the order dated 07.06.2018 and direct the respondents to give a chance to the petitioner for document verification.

16. To this effect, a letter shall be issued within two weeks by giving at least 15 days time to the petitioner for document verification.

17. The petition is, accordingly, allowed and disposed of.

18. Pending application also stands disposed of.

19. Order dasti to the parties.

(SURESH KUMAR KAIT)
JUDGE

APRIL 22, 2019
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