



W.P.No.3820 of 2017

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR JUSTICE P.DHANABAL**

**W.P.No.3820 of 2017
and WMP.No.3890 of 2017**

King Vivek

... Petitioner

Vs.

1.The Union of India,
Rep by its Chairman,
Railway Recruitment Board,
No.5, Dr.P.V.Churian Crescent Road,
Egmore, Chennai-600 008.

2.Assistant Personnel Officer / Recruitment
Railway Recruitment Cell,
No.5, Dr.P.V.Churian Crescent Road,
Egmore, Chennai-600 008.

3.The Registrar,
Central Administrative Tribunal,
City Civil Court Building,
Chennai-600 104.

.. Respondents



W.P.No.3820 of 2017

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the 3rd respondent order dated 18.11.2016 made in O.A.No.310/01637/2015 to quash the same and consequently, direct the respondents to consider the claim of the petitioner for appointment to any Group-D post forthwith and to extend all benefits arising thereto.

For Petitioner : Ms.N.R.Jasmine Padma
for M/s.L.Chandrakumar

For Respondents : Mr.P.T.Ramkumar for R1 and R2
R3- Tribunal

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner had applied for Group-D Post in the respondent Department / Railways and after successfully qualifying in the written examination, he participated in Physical Efficiency Test [PET], which held on 08.03.2015 and subsequently, his certificates were also verified. While that being so, the petitioner was issued with a Show Cause Notice dated 27.07.2015,



W.P.No.3820 of 2017

WEB COPY

informing that his Left Hand Thumb impression seems to have mismatched with the Bio Metric Impression taken during PET on 08.03.2015. The petitioner replied to the show cause notice, however the respondent Department said to have arrived at a conclusion that the petitioner did not attend PET and he was guilty of impersonation, vide order dated 28.10.2015, debarring the petitioner from appearing in any examination to be conducted by the Railways for appointment to any post in Indian Railways for life time.

3. Challenging the aforesaid order dated 28.10.2015, the petitioner filed an Original Application in O.A.No.310/01637/2015 before the Central Administrative Tribunal, Chennai. The Tribunal, taking into considering the submission made by the parties, had dismissed the original application, vide order dated 18.11.2016, against which the instant writ petition is filed. The Writ Petition was initially dismissed by this Court, vide order dated 31.07.2017, against which the petitioner preferred an appeal before the Hon'ble Supreme Court in Special Leave to Appeal (C)No.489/2018. The petitioner has produced photographs before the Hon'ble Supreme Court to prove that he had participated



W.P.No.3820 of 2017

in PET. The Hon'ble Supreme Court has held that minor variation, if any, in the thump impression cannot dis-entitle the petitioner for the post and since the aforesaid photographs have not been produced before the High Court earlier, the Hon'ble Apex Court had disposed of the Special Leave Petition, vide order dated 19.01.2018, granting liberty to the petitioner to approach the High Court by furnishing additional documents in addition to any other contentions available to the petitioner. Therefore, in the light of the aforesaid order passed by the Hon'ble Apex Court, the final order earlier passed by this Court dated 31.07.2017 was recalled.

4. According to the petitioner, he has filed the photographs in the typed set of documents in WMP.No.7984 of 2018, which has already been produced before the Hon'ble Supreme Court and based on the said photographs, liberty was granted to the petitioner to approach this Court. A perusal of the photographs would disclose that the petitioner has been assigned with No.4613 and he finished in 4th place in the PET. The aforesaid photographs were taken on 30.08.2015, Sunday around 10.05.33 and 10.05.34 a.m. Thus, the photographs produced



W.P.No.3820 of 2017

clearly shows that the petitioner has been identified in the said photographs and there is no impersonation and he had participated in PET and therefore, he is entitled for selection to Group D post in the respondent Department.

5. Mr.P.T.Ramkumar, learned Standing Counsel for the respondent/Railways would submit that the aforesaid photographs have been placed before the Hon'ble Supreme Court and the Special Leave to Appeal was decided at the admission stage itself by the Hon'ble Apex Court granting liberty to the petitioner to approach the High Court by furnishing additional documents and merely based on the photographs which has been enclosed in the typed set of documents, the petitioner cannot succeed in the selection process and it is for the competent authorities concerned to decide the disputed question of fact as to whether the petitioner had participated in PET on the said date and the disputed question of fact cannot be gone into in the present writ petition and the selection of the petitioner can be decided only after verifying the genuineness of the aforesaid photographs and all other relevant documents by the authorities and therefore, prayed for dismissal of the writ petition.



W.P.No.3820 of 2017

WEB COPY

6. This Court has considered the submission made by the parties and also perused the photographs filed in the typed set of documents before this Court.

7. Considering the liberty granted to the petitioner by the Hon'ble Supreme Court in Special Leave to Appeal (C)No.489 of 2018 dated 19.01.2018 to approach this Court and to furnish additional documents and as rightly pointed out by the learned Standing Counsel for the respondents, disputed question of facts cannot be decided in the writ petition, it is for the respondent Board to verify the photographs placed before this Court and to decide about the participation of the petitioner in PET.

8. In such circumstances, we are inclined to interfere with the order of the Tribunal and therefore, the order passed by the Central Administrative Tribunal dated 18.11.2016 in O.A.No.310/01637/2015 is set aside. The petitioner is permitted to file additional documents including the photographs to the respondent Board within a period of one week from the date of receipt of a copy



W.P.No.3820 of 2017

of this order and on receipt of the same, the Respondent Board shall conduct a detailed enquiry as to the genuineness of the documents and photographs produced by the petitioner and after affording opportunity to the petitioner, shall take appropriate decision in accordance with law within a period of eight weeks thereafter and communicate the decision taken to the petitioner. It is also made clear that in case the petitioner is being selected for Group-D Post, the respondent Board shall not reject his candidature on the ground that he is over aged.

9. The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K., J.) (P.D.B., J.)
01.11.2023

Intex : Yes/No
Internet : Yes/No
Jvm

1. The Chairman,
The Union of India,
Railway Recruitment Board,
No.5, Dr.P.V.Churian Crescent Road,
Egmore, Chennai-600 008.



WEB COPY



W.P.No.3820 of 2017

D.KRISHNAKUMAR, J.
and
P.DHANABAL, J.
Jvm

2.Assistant Personnel Officer / Recruitment
Railway Recruitment Cell,
No.5, Dr.P.V.Churian Crescent Road,
Egmore, Chennai-600 008.

W.P.No.3820 of 2017

01.11.2023