

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14280 of 2023

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Ravi Shankar Kumar, son of Ram Kishor Prasad, resident of Village-Deodhi Takth, P.O.-Deodhi, P.S.-Taraiya, District-Saran at Chapra.

... .. Petitioner

Versus

1. The Union of India through the Chairman, Railway Department, New Delhi-1.
2. The Senior Divisional Officer, Chakradharpur, Pin-833102.
3. The Upper Divisional (General) Manager, Office of General Manager, Garden Reach, Kolkata-700043 (South East Railway).
4. The Chairman, Railway Recruitment Cell, South Eastern Railway, Garden Reach, Kolkata-43.
5. The Member Secretary, Railway Recruitment Board, Ranchi, Pin-834027.
6. The Principal Chief Personal Officer, 11, Garden Reach Road, Kolkata-43.
7. The Senior Divisional Personal Officer, Chakradharpur, South Eastern Railway (Jharkhand) Pin-833102.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s	:	Mr. A.K. Pandey, Sr. CGC
		Mr. Shyam Bihari Singh, C.G.C

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 15-02-2024

Petitioner Ravi Shankar Kumar has assailed the order dated 02.09.2022 passed in O.A. No. 050/00464/2022 (Annexure-P/15). The petitioner was a candidate for recruitment to the post of Technician pursuant to the Advertisement No. CEN-01/2018. He had undergone all the tests and relevant criteria for the purpose of selection and appointment to the post



of Technician. He was offered appointment through mail communication on 02.12.2020. He has received only on 02.11.2021. In other words, there is a default on his part in not opening the e-mail and verifying the offer of appointment. The last test being held on 10.05.2019 in respect of computer based aptitude test, therefore, there is a gap of more than one year and six months insofar as providing offer of appointment on 02.12.2020.

2. Learned counsel for the petitioner submitted that petitioner is a resident of remote village namely Deodhi Takth, District-Saran at Chapra, therefore, he was not in a position to look into the e-mail from time to time. It is also submitted that wifi facility was not available in the vicinity village. In this backdrop, due to lack of communication of offer of appointment, he has been denied appointment and offer of appointment has been cancelled and it was subject matter of litigation before the Central Administrative Tribunal (CAT) under Section 19 of the Administrative Tribunals Act, 1985 and it was rejected, hence the present petition.

3. Learned counsel for the petitioner submitted that having regard to the merit of the petitioner read with the fact that he had offer of appointment to the post of Technician.



Merely there is a lack of communication of offer of appointment, cancellation of offer of appointment is incorrect, having regard to the dates and events to the extent that Advertisement was issued in the year 2018. Number of tests were conducted during the period from the year 2018 to 10.05.2019. 10.05.2019 is being the last computer based aptitude test, thereafter, the official respondents have taken one and half years in processing offer of appointment to the petitioner. There is a default on the part of the petitioner in not looking into the e-mail now and then. He has noticed only on 02.11.2021. It is also submitted that technology of e-mail communication and other things are not available in the remote villages. Therefore, he cannot be denied offer of appointment merely in not taking note of e-mail offer of appointment dated 02.12.2020 timely.

4. Learned counsel for the respondent resisted the aforementioned contention and submitted that offer of appointment is crystal clear that within the time he was required to accept the offer of appointment and further formalities were required to be completed. After gap of about nearly 10 months offer of appointment cannot be revived that to after cancellation of offer of appointment.



5. Heard learned counsels for the respective parties.

6. For public post Article 14 and 16 of the Constitution is required to be adhered. The petitioner had been given offer of appointment to the post of Technician on 02.12.2020 with reference to the date of Advertisement for the post of Technician in the year 2018 and certain tests were conducted during the period from 2018 to 10.05.2019. 10.05.2019 is the date on which the last test relating to computer based aptitude test was conducted. Thereafter, there was no immediate response from the official respondent. Therefore, the petitioner was under impression that he was not selected. Abruptly, on 02.12.2020 there was a communication through e-mail to the extent that petitioner was offered appointment to the post of Technician through e-mail to the petitioner's e-mail address on 02.12.2020 and it was noticed by the petitioner only on 02.11.2021. It was also submitted other similarly situated candidates offer of appointment was communicated through Registered Post.

7. Having regard to the fact that he was resident of village-Deodhi Takth, District-Saran. We have to draw inference that petitioner was resident of remote village and there may not be a wifi communication and other roaming Data and it has



resulted in noticing the offer of appointment only on 02.11.2021. Moreover, there is gap of about 1 ½ years in issuing offer of appointment. Such a merited candidate cannot be denied appointment even though if there is a delay for certain lapses on his part. In identical matter Hon'ble Supreme Court in the case of ***Rakesh Kumar Vs. State of Bihar & ors.*** reported in (2022) 14 SCC 45 and ***Sweety Kumari v. State of Bihar*** reported in ***AIR 2023 Supreme Court 4491: AIROnline 2023 SC 750*** directed the selecting and appointing authority to consider candidature for selection and appointment, even in the cited decisions there were certain errors in respect of non-production of certain documents timely.

8. Be that as it may, learned counsel for the petitioner submitted that even in the year 2024, the respondents are proceeding to fill up the Technician post. Such a communication dated 08.01.2024 reads as under:

भारत सरकार/Government of India
रेल मंत्रालय/Ministry of Railways
रेलवे बोर्ड/(Railway Board)

No.2022/E(RRB)/25/08

New Delhi, dated: 08.01.2024

The General Manager (P)s,
All Zonal Railways and Ups.

Sub:-Filling up of posts by Zonal Railways/ PUs from Standby
candidates of CEN 01/2018 (Technicians) and CEN 03/2018
(JE/DMS/CMA)

Ref: Board's letter of even number dated 25.08.2023.

Vide Board's letter under reference Instructions were issued by



Board allowing Zonal Railways / PUs to fill up their vacancies by standby candidates available with their respective feeder RRB(s) under CEN 01/2018 (Technicians), CEN 03/2018 (JE/DMS/CMA) and CEN 02/2019 (Para Medical) as per their administrative needs subject to certain conditions mentioned therein. It was also stipulated in the said letter that only vacancies arising upto 31.12.2023 would be filled up as per the dispensation given therein.

2. The matter of filling up of vacancies of JEs and Technicians by Standby candidates has been considered further by Board (CRB & CEO) and it has been decided to extend the the dispensation given vide Board's letter under reference upto 30.06.2025 for "JE/DMS/CMA" and "Technicians" only i.e. Zonal Rlys/PUs may fill up vacancies in these categories of posts arising upto 30.06.2025 by Standby candidates available with their respective catering RRB(s) considering medical fitness and similar qualifications etc. as per their administrative need and subject to the same conditions as mentioned in Board's letter under reference.

3. **It is reiterated that empanelment is to be done to the extent of standby candidates already available with RRBs and no new round of document verification is to be done if demand remains unmet.**

4. Validity of all panels under CENs mentioned in the subject above is extended **upto 31.12.2025.**

VIDYA
DHAR
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VIDYA DHAR
SHARMA
Dated:2024.01.08
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(Vidya Dhar Sharma)
Director Estt. (RRB)
Railway Board.

Copy to :- Chairpersons of all Railway Recruitment Boards.

9. Taking note of these material information, we are of the view that the present case is similar to the case decided by the Hon'ble Supreme Court (cited supra), therefore, the respondents are hereby directed to consider the name of the petitioner afresh and proceed to issue offer of appointment to the Technician post. It is made clear that petitioner is not entitled to arrears of salary from the month of January, 2020 with reference to letter of offer of appointment to the petitioner dated 02.12.2020. In other words, he is entitled to salary from



the date of afresh offer of appointment and reporting. However, he is entitled to other service benefits like seniority, pay fixation etc., on par with such of those who were appointed to the post of Technician in the month of December, 2020 or January, 2021. The concerned official is hereby directed to undertake the above exercise within a period of three months from the date of receipt of this order.

10. Accordingly, order of the Tribunal dated 02.09.2022 passed in O.A. No. 050/00464/2022 stands set aside and letter dated 02.11.2021 (Annexure-P/7 to O.A) is set aside and O.A. and C.W.J.C. No. 14280 of 2023 are allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.02.2024
Transmission Date	NA

