

03.12.2024
(D/L-9)
Ct. No.4
(B.K.N.)

W.P.C.T. 308 of 2024
Hema Kumari Singh
Vs.
The Union of India Ors.

Mr. Swarup Banerjee,
Mr. Sajal Kumar Ghosh
...for the Petitioner

1. Heard learned counsel for the petitioner.

2. The learned counsel for the petitioner has made his submissions assailing the order of the Tribunal passed in O.A. 00801 of 2022. The Tribunal by an order dated 8th April, 2024 has rejected the petitioner's application seeking the following relief:

"1. The applicants have filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief(s):

"(a) To issue the direction upon the said Respondent Authorities to initiate the process to give appointment to the Applicant as per the relevant rules and Regulation as prescribed in respect of the Central Government, as early as possible;

(b) To issue further direction to the respondents and the concerned officials of the eastern Railways to inform the present status of the application of the Applicant which is pending before the railway recruitment Authorities;

(c) To produce connected departmental record before the learned Tribunal at the time of hearing;

(d) Any other order or orders as the Learned Tribunal deems fit and proper."

3. It is the petitioner's claim that she applied for a 'Group D' post in response to employment notice dated 26th September, 2015. She has

participated in recruitment exam and thereafter it is her case that she received a letter from the respondent no. 3, The Chief Public Relation Officer, Eastern Railway intimating her that she had been selected for appointment as 'Technician-cum-Signaling Operator'. The letter reads as follows:

"Dear Candidate,

We are happy to inform you that your place of joining is **TARAPITH ROAD/TRF**, P.S.-Ramputhat, Dist- Birbhum, State- West Bengal.

(as a **Technician-cum-Signaling Operator**).

You will be informed shortly by a separate letter having date and venue of the Medical examination/tests for your final selection.

We are providing the place of joining as per Hon'ble Kolkata High Court order (For further details, refer to our website www.rrcer.com).

Please Note:

- This letter does confirm your selection only after qualifying for your Medical examination followed by Certificate Verification.
- After qualifying above you will be selected for your job.
- For Certificate Verification bring the entire relevant document along with the one attested copy, to the centre of examination.
- Bring two passport size photographs which will be pasted on your joining letter after getting joining letter.
- Show the letter in front of examiner during all the examinations/tests.
- No query will be entertained with only of the phone numbers hence do not call or send e-mail to us.
- All other details will be given on your call letter.

Thanking You,

S.P.O. (Rectt.)
RRC,ER"

4. The learned counsel submits that in view of the letter having been issued in favour of the

petitioner in specific terms appointing the petitioner, the petitioner was entitled to a direction by the Tribunal to allow her to join pursuant to such letter. The respondents, however, in the Tribunal have taken a stand that the letter relied upon by the petitioner is fake and fabricated.

5. Merely on the basis of such assertion made by the respondents the Tribunal has proceeded to accept the stand of the respondents that the letter is false and fabricated and does not vest any right in favour of the petitioner. Such conclusion is unsustainable in the eyes of law.
6. In fact, the series of letters preceding the letter dated 22nd April, 2017, namely the letters issued by the authorities on 17th March, 2014 and 6th May, 2014 during the course of the recruitment process makes it clear that the intimations were sanctioned by the respondent authorities and supports genuineness of the petitioner's claim.
7. We find from bare perusal of the records and the orders passed by the Tribunal that the respondents have taken a stand in the proceedings before the Tribunal that the letter dated 22nd April, 2017 claimed to have been issued by the respondent no. 3 being relied upon by the petitioner was denied and disputed by the

authorities. They have taken a specific stand that the same or the earlier two letters being relied upon by the petitioner were not issued by their office/s. Having taken such stand they have also raised the issue of the claim of the petitioner being delated.

8. On the basis of a communication dated 22nd April, 2017 the O.A. has been filed in 2022. The petitioner in between in 2019 had also got a letter written to the authorities by his advocate. Even after the letter was issued in 2019 he has waited for another three years.
9. It is further submitted that the panel of selected candidates was notified on the website of the respondent authorities in the year 2015 itself. This aspect of the matter is admitted by the petitioner in paragraph 'H' of his rejoinder in the following terms reproduced:

“(h). That I submit that I had waited for longer but without any fruitful result, and suddenly came to know from the Website of Railway recruitment cell that a panel of 5709 candidate was prepared in compliance of the order of Hon’ble Central Administrative tribunal, Kolkata bench passed on 26.09.2015. But the respondent Authorities, at no time bothered to give me any kind of intimation in this regard. Neither they informed that a litigation was pending in any court or tribunal challenging the process of recruitment initiated under EN-0112 nor they informed that a panel was already formed on 26.09.2015 but instead they sent me e-mail giving my designation and workplace in their letter dated 22.04.2017.”

10. The authorities have further laid before the Tribunal the marks scored by the petitioner in

the written examination wherein she was awarded 28 marks, even below the qualifying marks of 40% for unreserved candidates. The cut off marks under the unreserved candidates was 82.33 marks.

11. It is, therefore, the stand of the respondents that there was no occasion for the petitioner to be issued any appointment letter. On the basis of her performance in the exam as she was unqualified for the appointment in the question.
12. Considering the rival submissions we find that the stand taken by the respondents is derived from the records placed before the Tribunal. After giving a thorough consideration to the issue, referring to all these documents and correspondences referred above, we are of the view that apart from the petitioner's claim being belated, on merits also she has not been able to make out any right to claim the appointment in question. The authorities have given the details of the petitioner's mark as noted above. She had not even secured qualifying mark of 40% in her category (Unreserved). The cut of marks based on which the last candidate was selected in his category was 82.33 marks, whereas the petitioner secured only 28 marks, way below the zone of consideration.

13. In so far the submission advanced on behalf of the petitioner that the three communications dated 17th March, 2014, 6th May, 2014 and 22nd April, 2017 being relied upon by her cannot be said to be fake until and unless it is established as such, we observe that such stand is irrelevant, in view of the fact that her performance in the recruitment process has been looked into and she was found to have secured less than qualifying marks, there was no occasion for the petitioner to claim appointment.
14. We find no reason to interfere with the order dated 8th April, 2024 passed in O.A. No. 00801 of 2022.
15. The writ petition is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)