



2024:DHC:9041-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1522/2022**

AMIT KUMARPetitioner
Through: **Mr. A.K. Trivedi, Adv.**

versus

UNION OF INDIA AND ORSRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT (ORAL)

% **20.11.2024**

C. HARI SHANKAR, J.

1. This writ petition assails an order dated 24 April 2017 passed by the Central Administrative Tribunal, Principal Bench¹ in OA 2064/2015. We deem it appropriate to reproduce the order in its entirety:

“Since the question of law and facts involved in both the aforesaid cases are identical, they are being disposed of by this common order. For the sake of convenience, we have considered the facts from OA No.416/2015.

2. The applicant, in pursuance of the Employment Notification No.220E/open mkt/rectt./2012, dated 30.08.2012, had applied for a Group 'D' post in Northern Railway, in ST Category. He was allotted Roll No.40312356 and Control Number as 4072582. He participated in the written examination, which was held on 08.12.2013 and thereafter he was also called for Physical

Signature Not Verified¹ “the Tribunal” hereinafter

Digitally Signed By: AMIT
KUMAR WP(C) 1522/2022
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2024:DHC:9041-DB



Efficiency Test (in short, PET) and after qualifying the same, he was called for documents verification on 04.06.2014 and thereafter he was also sent for medical examination, in which the applicant qualified and declared fit. It is stated that although appointment letters were issued to other selected candidates, but in respect of him, the respondents mentioned status "Documents required from candidate or case recommended by the committee/Admin. to the Technical Experts for further examination", on the web-site in November, 2014. On 12.12.2014 (Annexure A/1), the respondents mentioned on the web-site that the case of the I applicant was rejected by the experts. On his personal inquiry about his case, the staff of the Respondent No.3 informed the applicant that he has put his signature differently in the respective documents. Hence, the present OA has been filed mainly on the ground that the candidature of the applicant has been rejected without issuing any show cause notice and without giving him any reasonable opportunity, and without supplying a copy of the expert report, which is illegal, arbitrary, discriminatory and against the principles of natural justice.

3. Per contra, the respondents, in their reply, have stated that during document verification, a Committee of three Railway officers, constituted for the purpose, observed that writings on the relevant papers did not match and accordingly the applicant's case was sent for detailed examination by a forensic expert nominated by Ministry of Railway, and on receipt of the expert's report confirming the mismatch of his hand-writing/signatures, the applicant's case was rejected by the competent authority in consonance with the notified terms and conditions in the aforesaid Employment News and status was accordingly uploaded on RRC website. It is further stated that calling for document verification does not automatically confer any right upon candidate for his Medical Examination or his appointment on any post of Northern Railway.

4. The learned counsel for the respondents, while not denying the aforesaid facts about calling of the applicant for medical examination, etc., would submit that the present OA is squarely covered by the decisions of this Tribunal in OA No.2915/2015, decided on 05.09.2016 and OA No.2109/2015, decided on 09.09.2016, and also by the decision of the Hon'ble High Court of Punjab & Haryana in CWP No.12264/2016, decided on 08.11.2016. Hence, he submits that the OA is liable to be dismissed.

5. Heard the learned counsel for both sides and perused the pleadings on record.



6. After hearing the matter at length on 28.11.2016, since the reply of the respondents did not give the complete details of rejection of the candidature of the applicant, we directed the respondents to produce the relevant records. In compliance thereto, on 08.03.2017, the learned counsel for the respondents furnished a Xerox copy of the Application Form, OMR Answer Sheet, Document Verification cum Medical Examination Report and Expert Report of Forensic Documents Consultant & Ex. Govt. Examiner of Questioned Documents, MHA, Govt. of India, Shimla dated 12.12.2014 and 17.01.2015, etc. in respect of Shri Prakash Chand Meena (Applicant in OA No.416/2015) and also in respect of Shri Amit (Applicant in OA No.2064/2015), respectively. On a bare perusal of the Handwriting Expert Reports dated 12.12.2014 and 17.01.2015, wherein it was observed that there is a mismatch of handwriting/signature of the applicant in various documents.

7. It is well settled that once an Expert Body has given an opinion in any matter, the Tribunal/Court cannot sit in Judgement over the same as an appellate authority and accordingly, cannot interfere with the same. Further it is pertinent to mention that a candidate is bound to fulfil all the mandatory conditions of the employment notice and failure to comply with the same, would entitle the competent authority to reject his application, in accordance with law.

8. After having carefully gone through the aforesaid Judgements, including the Judgement of the Hon'ble High Court of Punjab and Haryana at Chandigarh in **Parveen Kumar V. Central Administrative Tribunal, Chandigarh and Others²**, CWP No.12264/2016, decided on 8.11.2016, relied upon by the respondents' counsel, and also on perusal of the documents produced by the respondents counsel, including the Forensic Consultant reports dated 12.12.2014 and 17.01.2015, for parity of reasons, the OA is liable to be dismissed as the case is squarely covered by **Parveen Kumar (supra)**, wherein identical arguments/grounds were considered and rejected by the Hon'ble High Court. The relevant portions of the said Judgement, read as under:

"3. Learned counsel for the petitioner by assailing the impugned order dated 22.04.2016 (Annexure P-1) contended that the Tribunal failed to appreciate that decision in (i) **Devender Kumar Vs. The General Manager of Northern Railway and another³**, decided on 27.07.2015 and (ii) **Pardeep Kumar Vs. Union of India⁴**, decided on

² 2016 SCC OnLine P&H 12569

³ OA 2356/2014

⁴ OA 4143/2013



22.12.2015 were quite distinguishable from the facts of the case of the petitioner, because in those cases disputed signatures did not match, whereas in the case of the petitioner his signatures on all the documents were similar. He also contended that in the case of Pardeep Kumar (supra) it was observed that it is clear from a simple examination of the documents, even without relying on the report of the expert that there were different signatures on different documents and no report of handwriting expert was attached with the Original Application, whereas in the case of the petitioner, he had obtained a report of the handwriting expert and attached the same with his Original Application, proving that his signatures. and thumb impressions were similar. The Tribunal had not recorded any finding about the report of the hand-writing expert obtained by the petitioner and, thus, had violated the principles of natural justice. Since, the petitioner had also affixed his thumb impressions on various documents, so it was Incumbent upon respondents No. 2 to 4 to get compared his thumb impressions instead of his signatures, because the science of comparison of hand-writing is not a perfect science whereas the science, of comparison of thumb impressions is a perfect science. In support of his contentions, learned counsel for the petitioner has placed reliance upon (i) *Monotosh Das Vs. Union of India (UOI) and others*⁵; (ii) *Sandeep Kumar Vs. Union of India and another*⁶, decided on 04.11.2015; (iii) *Sudhangshu Sekhar Biswas Vs. Union of India and others {Eastern Railway}*⁷; (iv) *Vikas Kumar and others Vs. Union of India and others*⁸; (v) *Abhishek Kumar and another Vs. State of Jharkhand and others*⁹; (vi) *Raj Kumar and others Vs. Hari Chand (dead) through his LRs and others*¹⁰; (vii) *Jasmal Kaur Vs. Malkiat Singh*¹¹; (viii) *Chamkaur Singh Vs. Mithu Singh*¹²; and (ix) *Mohd. Altaf (2) and others Vs. U.P. Public Service Commissioner and another*¹³.”

4. After hearing learned counsel for the parties and going through the impugned order Annexure P-1 passed by the Tribunal, we do not find any merit in the present writ petition.

⁵ 2008 (3) GauLJ 525

⁶ OA 574/2015

⁷ 2010 (2) WBLR 810

⁸ 2006 (129) DLT 191

⁹ 2009 (1) AIR Jhar R. 164

¹⁰ 2014 (4) RCR (Civil) 304

¹¹ 2012 (5) RCR, (Civil) 268

¹² 2014 (1) RCR (Civil) 303

¹³ 2008 (14) SCC 144



5. At the outset, it is pertinent to mention here that the employment notice does not create a right to be appointed to the post as per law declared by the Hon'ble Supreme Court under Article 141 of the Constitution of India as reiterated in ***Jatinder Kumar & others Vs. State of Punjab & others***¹⁴, [3 Judges Bench]. The Apex Court held that the process for selection and selection for the purpose of recruitment against anticipated vacancies does not create a right to be appointed to the post which can be enforced by a mandamus. Undisputedly, the petitioner was bound to fulfill all the mandatory conditions of the employment notice and failure to comply with the same entitled the Competent Authority to reject any application, in accordance with law. For appreciation, reliance can be placed upon ***Bedanga Talukdar Vs. Saifudaullah Khan and others***¹⁵, and ***Union of India and another Vs. Sarwan Ram and another***¹⁶, wherein it was held that it was always open to the competent authority to reject such application which is incomplete. The selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained.

6. In the instant case, the petitioner has not levelled any allegations of unfairness or arbitrariness against anyone, even against the Government Expert who, gave his opinion against the petitioner which was made the basis of rejection of his candidature. The plea of the petitioner that principles of natural justice have been violated while rejecting his candidature has no force, because by this time, it is well settled that natural justice is no unruly horse, no lurking land mine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential procedural propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Reliance can be placed upon ***Chairman, Board of Mining Examination and Chief Inspector of Mines, and another Vs. Ramjee***¹⁷. The opinion obtained by the petitioner from a private hand-writing and finger-print expert cannot be made the legal basis for rejecting the opinion of Government Examiner from which respondents

¹⁴ (1985) 1 SCC 122

¹⁵ AIR 2012 SC 1803

¹⁶ Civil Appeal 9388 of 2014 in SLP (C) 706 of 2014 decided on 08.10.2014

¹⁷ AIR 1977 SC 965



2024:DHC:9041-DB



No. 2 to 4 sought opinion about the candidature of the petitioner.

7. In ***Sudhanshu Sekhar Biswas***'s case (*supra*), the Tribunal had set aside the rejection order of the candidature of the petitioner as the same was passed without assigning any reason and without any application of mind whereas in the instant case rejection order of the petitioner is well reasoned on the basis of report of hand-writing expert. In the cases relied upon by learned counsel for the petitioner the order cancelling the candidature of the petitioner(s) were passed without assigning any reason or without any application of mind and thus, no benefit of the same can be given to the petitioner.

8. We have gone through the impugned order dated 22.04.2016 (Annexure P-1) and find no illegality or perversity in the same. Accordingly, the instant petition is dismissed."

9. In the circumstances and for the aforesaid reasons, both the OAs are dismissed. No costs."

2. The only issue in controversy was with respect to the identity of the petitioner owing to a suspected mismatch between his handwriting/ signature on various documents submitted during the selection process.

3. During the course of these proceedings on 1 November 2022, the following order was passed by this Court:

"1. Original record has been produced. Perusal of the original record prima facie shows that handwriting on the OMR sheet as well as application form is of the same individual though there is an opinion annexed which states that handwriting does not match.

2. Prima facie, we are not in agreement with the opinion. It is, however, observed that the application form as well as OMR sheet, both contain thumb impression. There is no forensic opinion with regard to the thumb impression.

3. Accordingly, it is directed that OMR sheet as well as



2024:DHC:9041-DB



application form be sent to the Central Forensic Science Laboratory, Rohini for rendering an opinion on the thumb impression as well as the handwriting and signatures of the applicant contained therein.

4. Respondents are accordingly directed to send the same to the CFSL for rendering an opinion. Director, CFSL is requested to expedite the examination and submit a report to the Court, before the next date of hearing.

5. List on 23.01.2023.”

4. Thereafter, the report of the FSL was obtained and submitted to the Court in a sealed cover, as recorded on 04 March 2024. The Court posed certain further queries and directed the CFSL to furnish a fresh report.

5. The said report has been furnished by the respondents in a sealed cover, and seen by us. It is taken on record.

6. The report confirms that the thumb impression of the petitioner on the documents furnished during selection correspond to his admitted specimen thumb impressions.

7. As such, there is no thumb impression mismatch of the petitioner as was originally suspected.

8. It is settled, in evidence, that comparison of thumb impressions results in a far more accurate and exact result than comparison of handwriting. Handwriting may change with time; it may even change with mood; whereas the thumb impression is unchangeable and



2024:DHC:9041-DB



immutable. In *Jaspal Singh v State of Punjab*¹⁸, the Supreme Court observed that "the science of identifying thumb impression is an exact science and does not admit of any mistake or doubt".

9. As the thumb impression of the petitioner has been found by the FSL to be matching with his admitted thumb impression, we do not deem it appropriate to keep this matter pending any further. There is no reason for us to doubt the credibility of the decision of the FSL.

10. In that view of the matter, the doubt regarding mismatch of the thumb impression of the petitioner on his application form, ORM sheet and other documents submitted by him consequent to the Notification dated 30 August 2012 pursuant to which the petitioner applied, stands allayed.

11. Accordingly, the impugned order of the Tribunal is quashed and set aside.

12. The respondent is directed to appoint the petitioner consequent to the Notification dated 30 August 2012 along with others, who had applied with the petitioner consequent to the said Notification. The petitioner would also be entitled to all consequential benefits except back wages. The petitioner would also be entitled to notional fixation of pay with effect from the date he would be appointed.

13. Let compliance with this order be ensured within eight weeks from today.



2024:DHC:9041-DB



14. The writ petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

AMIT SHARMA, J.

NOVEMBER 20, 2024/aky

Click here to check corrigendum, if any