



2024:DHC:8865-DB



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

+ **W.P.(C) 5395/2019**

DINESH KUMAR GURJAR

.....Petitioner

Through: Mr. A.K. Trivedi and Mr.
Dhruv Kothari, Advs.

versus

UNION OF INDIA & ANR

.....Respondents

Through: Ms. Pratima N. Lakra, CGSC
with Mr. Chandan Prajapati, Adv with Mr.
Dinesh Prasad (OS RRC)

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

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13.11.2024

C. HARI SHANKAR, J.

1. The Northern Railway issued a recruitment notice, for filling up of 5679 Group D posts in the pay-scale of ₹ 5200-20200 with Grade Pay of ₹ 1800 on 30 December 2013. The petitioner applied against the said notice. He participated in the written examination which was held on 30 November 2014 and was declared successful for appearing in the next stage of selection, which was the Physical Endurance Test¹, in the result declared in 2015. He cleared the PET and was called for verification of documents on 24 June 2015.

¹ "PET" hereinafter



2024:DHC:8865-DB



2. At the stage of verification of documents, the petitioner's candidature was cancelled. The reason, as displayed on the website of the Northern Railway, read thus:

“In terms of Employment Notification No.220E/Open Mkt/RRC/2013 dated 30/12/2013, published in Employment News dated 11-17 January 2014, a recruitment process to fill up 5679 vacancies in Pay Band-I Rs.5200-20200 + GP Rs.1800/- Group 'D' Post was initiated. In Para 5 thereof detailed information on how to apply, general conditions and invalid applications with, clear stipulation that admission of all the candidates at all stages of recruitment would be purely provisional subject to satisfying the prescribed conditions was prescribed. It was also stipulated in the notification/instructions that candidate should fill up the application form including the paragraph indicated in the application form in his/her own hand-writing.

Railway Recruitment Cell got your case examined from Ex. Government Examiner for Questionable Documents [GEQD] nominated by Ministry of Railway, Govt. of India, for matching of Hand-writing/Signature on the application form vis a vis the OMR Sheet, Document verification Proforma etc. The Document Expert has since tendered his opinion/advice to the effect that the writing/Signature on the application, OMR Sheet. Document verification proforma under examination do not match. Accordingly you have violated the examination condition regarding the candidates to fill up the application form including the paragraph indicated in the application form in his/her own hand-writing or it is a case of impersonation. Hence after taking into account all facts of your case it has been decided to reject your candidature for the above examination. You are further informed that any further action, if any, to be taken against you by Rly, Administration for above noted misconduct/violation of Examination conditions, will be taken up separately.

Take note that the issue regarding cancellation/rejection of candidature of candidates resorting to violation of examination conditions and misconduct of impersonation was a matter before the Hon'ble Courts/Tribunals and same has been settled wide orders dated 9.7.2014 in the case of Deepak Vs UOI OA No.1355/HR/2013 of Chandigarh Bench and orders dated 01.05.12 in OA No.1181/2012 Sonu v UOI and order dated 27.07.15 in OA No.2356 of 2014 Devendra Kumar Vs UOI by Principal Bench/CAT/Delhi & Apex Court Judgment in SLP(C) No.706/2014 i.e. UOI & Anr. Vs Sarwan Ram & Anr.



2024:DHC:8865-DB



You stands informed accordingly through RRC/NR website, which is the prime source of dissemination of information to the candidates.”

3. The petitioner represented against the decision to cancel the candidature on 28 January 2016 and 7 April 2016. He submitted that, while he normally used to sign in English, the application form required him to enter his signatures in English and Hindi. In his Hindi signature, he entered his name as “दिनेश कुमार”.

4. According to the petitioner, almost a year elapsed between the submission of the application and the conducting of the examination. In the OMR² sheet, which was to be filled up at the time of undertaking the written examination, the candidates were required to sign both in English and Hindi. The petitioner submitted that he did not remember that in his application, he had signed in Hindi only as “दिनेश कुमार” and that it was for this reason that, on the OMR sheet, he entered his name as “Dinesh Kumar Gurjar”/ “दिनेश कुमार गुर्जर” both in English and Hindi. But for this difference, the petitioner submitted that there was no mismatch between his English and Hindi signature as entered at various stages of the recruitment process.

5. As the aforesaid representations did not elicit any response, the petitioner approached the Central Administrative Tribunal³ by way of OA 2200/2016.

² “Optical Mark Recognition”

³ “the Tribunal” hereinafter



6. Apart from merits, the petitioner contended, before the Tribunal, that the decision to cancel his candidature was taken in breach of the principles of natural justice, as he had not been issued any show cause notice prior thereto.

7. The respondents, in its reply to the OA, submitted that the documents on which the petitioner had entered his signatures had been sent for comparison to the Ex-Govt. Examiner for Questionable Documents⁴, who opined that the signatures did not match.

8. It was also submitted that, in such a situation, cancellation of the candidature of the petitioner could not be regarded as vitiated for non-compliance with the principles of natural justice.

9. The petitioner submitted out that no copy of report of the Ex. GEQD had been made available to the petitioner.

10. The Tribunal dismissed the OA on the following reasoning:

“6. The process for recruitment is an important and a sacrosanct process and integrity is to be maintained. With a view to avoid impersonation, certain procedures have been laid down. In the instant case the procedure includes that a candidate has to write in his own handwriting the same paragraph at the stage of making application, at the stage of writing examination in OMR sheet as well as at the stage of documents verification. At all these stages the candidate is also required to put his signature in Hindi as well as in English.

7. In view of a large number of candidates, the occasion for verification of the same arises at the stage of documents

⁴ “the Ex. GEQD”



2024:DHC:8865-DB



verification. Thereafter, the doubtful cases are sent for report by the expert viz. Ex. GEQD. In this case the Ex. GEQD report indicated mismatch in handwriting as well as in signatures and thus a doubt about impersonation got confirmed. This cannot be faulted. Since this rule, for cancellation of candidature in such cases of mismatch, is uniformly applied, the applicant's candidature was rejected. Even a preliminary examination by the Tribunal of the signatures and writing at these three stages reveals differences as under:

Item	Stage of Examination		
	Application	OMR (Written Exam)	Document Verification
English Signature	Dinesh Kumar	Dinesh Kumar	Dinesh Kumar
Hindi Signature	दिनेश कुमार	दिनेश कुमार गुर्जर	दिनेश कुमार गुर्जर
	The word गुर्जर is missing from signature at Application stage. Further, the font and pattern of writing the word 'कुमार' at Application stage is different and does not match with two subsequent stages.		
English sentence	Small letter 't' used in the para.	Capital letter 'T' used in various words, even when they appear in middle of sentence or in words.	Small letter 't' used in the para.

It is obvious that the applicant had signed in Hindi as दिनेश कुमार at application stage, whereas he signed दिनेश कुमार गुर्जर as at both OMR as well as documents verification stage. Thus, the word “गुर्जर” is missing at Application stage. Further, the way word “कुमार” has been signed at Application stage, does not match with the same at OMR and documents verification stage. The English paragraph written in his own handwriting also indicates that the small letter 't' has been used at application stage and at documents verification stage, as against this, capital letter 'T' has been used in writing English paragraph in OMR, even at places where capital letter is not needed.

These differences are clearly indicative of impersonation as the same candidate is not likely to sign or write in such different forms.



2024:DHC:8865-DB



The pleadings by applicant that he normally does not sign in Hindi and thus the difference, is not acceptable.

8. In view of the foregoing, when the differences are visible, even on a cursory glance, no useful purpose would be served by further calling and examining the report of Ex GEQD. Accordingly, MA No.773/2017 is dismissed.”

11. Aggrieved by the aforesaid decision of the Tribunal, the petitioner, as the applicant before the Tribunal, has approached this Court under Article 226 of the Constitution of India.

12. We may observe, at this juncture, that the manner in which the Tribunal proceeded is completely unacceptable. The Tribunal did not deem it even appropriate to call for the report of the Ex. GEQD. Rather, the Tribunal itself chose to compare the handwriting and return a finding of mismatch. While it is true that, in a rare and exceptional case, the Court may compare signature for itself (*See Lalit Popli v Canara Bank*⁵), this is a course of action which should be adopted in the rarest of rare. Even in such a situation, the Court may return a finding only if there is glaring difference between the disputed signature and admitted signature.

13. In the present case, the Tribunal has, apropos the signature of the petitioner in various documents, observed that (i) the petitioner had signed the application, as दिनेश कुमार, whereas he signed the OMR and other documents at the verification stage in Hindi as दिनेश कुमार गुर्जर, (ii) the manner in which the formation of the word “कुमार” in the signature of the petitioner, at the two stages did not match and (iii) in

⁵ (2003) 3 SCC 583



2024:DHC:8865-DB



the English paragraphs written by the petitioner, he had used the lower case 't' at the application and document verification stage and the upper case "T" in the paragraph in the OMR. This itself, according to the Tribunal, clearly indicated impersonation.

14. None of the three grounds on which the Tribunal arrives at its conclusion of impersonation can sustain judicial scrutiny.

15. Firstly, the mere fact that the petitioner included गुर्जर in the signature at the OMR and verification stage, whereas the signature at the application stage was merely दिनेश कुमार, cannot be regarded as indicative of impersonation. Besides, the Tribunal has overlooked the fact that there was nearly a year between the filling in of the application and the submission of the OMR/verification of the documents.

16. Secondly, the Tribunal could not have donned the mantle of a handwriting expert and offered a subjective finding that there was a mismatch in the manner in which कुमार had been written in the signature of the petitioner at the two stages. On this, it is also necessary to note that there is a distinction between holding that there is a difference between two signatures, and that there is so great a difference between two signatures as to give rise to a legitimate inference that they are not by the same person. A Court may, in a given case, at a glance at two signatures, feel that they do not match. Every slight difference between two signatures cannot, however, indicate that they are not by one person. It may not be incorrect to



state that it is impossible for anyone to write the same word, or sign, twice, in such a manner that the two words, or signatures, are *exactly identical*. It is, therefore, only a handwriting expert who could authoritatively opine, by comparison of signatures, whether they are by one person or by different persons.

17. Thirdly, the mere fact that, in one paragraph, the petitioner used a lower case 't' and at a later stage used the upper case 'T', can hardly indicate impersonation.

18. We are, therefore, of the view that the Tribunal was clearly in error in the manner in which it proceeded. It proceeded on extraneous considerations and further, apropos the word कुमार in the signature of the petitioner, acted as a handwriting expert, which it could not legitimately have done.

19. Further, this Court, on 1 April 2024, also noted that there was no material to vouchsafe the expertise of the ex GEQD. The order dated 1 April 2024 read thus:

“1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 05.04.2019 passed by the learned Central Administrative Tribunal in O.A.2200/2016. Vide the impugned order, the learned Tribunal has rejected the original application filed by the petitioner wherein he had sought setting aside the cancellation of his candidature for a 'Group D' post, for which post, he had applied pursuant to the Recruitment Notice dated 30.12.2013 issued by respondent no. 2.

2. Learned counsel for the petitioner submits that the impugned order is wholly perverse as the learned Tribunal has upheld the cancellation of the petitioner's candidature on the erroneous presumption that there was a mismatch in his



handwriting in the application form vis-a-vis his OMR sheet as also the verification form submitted by him. He contends that the learned Tribunal has accepted the arbitrary conclusion arrived at by the respondent on the basis of a report submitted by an examiner who had no scientific background but was merely an ex-government employee. In case, the respondent had any genuine doubts regarding the petitioner's identity, it ought to have taken the opinion of the FSL before cancelling his candidature. He, therefore, prays that the impugned order be set aside and the respondent be directed to appoint the petitioner alongwith all consequential benefits.

3. On the other hand, Ms. Pratima N. Lakra, learned counsel for the respondents seeks to support the impugned order and submits that the learned Tribunal was justified in rejecting the original application filed by the petitioner after noting the fact that as per the report given by the examiner appointed by the respondent, there was a clear mismatch in the handwriting on the application form, verification form as also the OMR sheet filled by the petitioner. After some arguments, she concedes that the opinion of the FSL regarding the purported mismatch in the petitioner's handwriting was not sought.

4. Having considered the rival submissions of the parties, and perused the record, including the counter-affidavit filed by the respondents before the learned Tribunal, *it is clear to us that though the respondents have taken a decision to cancel the petitioner's candidature on the basis of a report furnished by a so called expert i.e., by an ex-government examiner, nothing has been brought on record to show that this purported examiner had the requisite expertise to compare handwritings. We are, therefore, of the considered view that in case, the respondents had any doubt regarding the petitioner's handwriting, the matter should have been sent to the FSL as is done as a matter of course in other cases where there is a doubt regarding the handwriting of the candidates. The respondents cannot be permitted to paint any candidate as having used unfair means only on the basis of conjunctures or reports submitted by such ex-government employees who do not have any such expertise in comparing handwritings.*

5. Learned counsel for the petitioner fairly submits that he has no objection to the matter being referred to the FSL for examination of the petitioner's handwriting. He, however, prays that while referring the matter to the FSL, it may be made clear that in case, the FSL report is found to be in the petitioner's favour, he should be forthwith granted appointment with all consequential benefits including full back wages.



6. In the light of the aforesaid, we direct the respondents to refer the matter to FSL, within a period of two weeks, with a request to the FSL to submit its report within a period of four months. In case, any further signatures are required from the petitioner, due communication in this regard will be sent to him through counsel. It is, however, made clear that in case the report of the FSL comes in the petitioner's favour, he will be entitled to all consequential benefits including back wages. Needless to state, the appointment of the petitioner would be subject to his fulfilling all other eligibility criteria.

7. Needless to state, this would be subject to the petitioner found to be fulfilling all other conditions.

8. List on 29.08.2024.”

(Emphasis supplied)

20. The FSL report was subsequently produced before this Court in a sealed cover. The Court directed that there was no justification for maintaining confidentiality regarding the report and directed that the report be placed on record.

21. The FSL report has compared the thumb impressions of the petitioner on the various documents submitted at the point of application and verification of documents and found them to be matching. The report is extremely detailed and, while it is not deemed necessary to reproduce the report, suffice it to state that it is extremely detailed and comprehensive.

22. 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:8865-DB



immutable. In *Jaspal Singh v State of Punjab*⁶, the Supreme Court observed that “the science of identifying thumb impression is an exact science and does not admit of any mistake or doubt”.

23. As the decision of the CFSL, on comparison of thumb impressions, is in favour of the petitioner, the misgivings harboured by the respondents regarding the identity of the petitioner stand allayed.

24. We, therefore, see no reason to keep this matter pending.

25. Accordingly, the impugned order dated 5 April 2019 passed by the Tribunal in OA 2200/2016 is quashed and set aside.

26. OA 2200/2016, filed by the petitioner before the Tribunal, is allowed.

27. The respondent is directed to appoint the petitioner consequent to the Notification dated 30 December 2013 in accordance with his performance, 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.

28. Compliance with this order be ensured within eight weeks from

⁶ (1980) 1 SCC 487



2024:DHC:8865-DB



today.

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

C. HARI SHANKAR, J.

GIRISH KATHPALIA, J.

NOVEMBER 13, 2024/dsn

Click here to check corrigendum, if any