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

+ **W.P.(C) 5923/2019**

**MANOJ KUMAR**

.....Petitioner

Through: Mr. Nitin K. Gupta, Mr. Pranjal Vyas, Mr. Aayush Tripathi and Mr. Dhruv Sikka, Advocates.

versus

**UNION OF INDIA AND ORS.**

.....Respondents

Through: Ms. Shiva Lakshmi, CGSC.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN**

**JUDGMENT (ORAL)**

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**04.11.2024**

**C. HARI SHANKAR, J.**

1. This writ petition assails an order dated 24 January 2019 passed by the Central Administrative Tribunal, Principal Bench<sup>1</sup> in O.A. 1701/2015. We deem it appropriate to reproduce the order in its entirety:

"1. We have heard Mr. Nitin Kumar Gupta, counsel for applicant and Mr. Prabodh Kumar Singh for Mr. Kripa Shankar Prasad, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

"(a) Direct the Respondents to set aside the 'Case

Signature Not Verified<sup>1</sup> "the Tribunal", hereinafter

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rejected by the expert i.e. Mismatch in handwriting/signature on application form, OMR & document verification papers etc has been reported by Forensic Document Expert, duly nominated by Ministry of Railway/Govt. of India and based on this advice, Candidature rejected by Chairman/RRC" result dated 22.03.2015 issued by the Respondents issued against the applicant;

(b) remove the name of applicant from the list of rejected candidates and declare the applicant herein eligible for appointment in the Employment Notice No.220-E/Open/Mkt./RRC/2012 under UR Category as per his merit;

(c) Direct the respondents to grant appointment to the Applicant on the appropriate post pursuant to the marks obtained by him alongwith all benefits and allowances, with retrospective effect from the date of withholding of candidature;

(d) Pass any such other and further order(s)/direction(s) as this Hon'ble Court may deem fit and proper."

3. The crucial question arising in this case is whether the rejection of the appointment of the applicant on the mismatch in the handwriting/signature of the applicant available on the Application Form, ORM Sheet, D.V. papers etc. is sustainable at the final stage of the recruitment process.

4. The relevant facts of the case are that the applicant had applied for Group 'D' post in response to the Employment Notification No.220- E/Open Mkt./RRC/2012 dated 30.08.2012 published in the Employment News issued by the respondents. He had successfully cleared the written examination and physical efficiency test. He was provisionally found eligible for documents verification. But, however, at the time of documents verification, the respondents found that there is handwriting/signature mismatch on the relevant papers referred to above and on that basis the candidature of the applicant was rejected.

5. The counsel for the applicant vehemently submitted that no opportunity was given to the applicant to explain the mismatch in the handwriting/signature, as such there is violation of principle of natural justice and on that ground she has prayed for the above stated relief.

6. The respondents in their counter affidavit stated that the



admission of the candidate at every stage of the recruitment process is purely provisional, subject to satisfying the prescribed condition and they have also stated that one of the conditions is that the candidate should fill up the application form in his/her own handwriting as per the conditions of the recruitment, and that during the examination of the applicant's case it was decided by the respondents (Northern Railway) to get the expert advice from the Forensic Document Expert duly nominated by the Ministry of Railways for the purposes of reference to matching the handwriting/Signature on the relevant papers. The said Documents Expert after examining the relevant documents with reference to the applicant advised that the hand writing/signature of the applicant do not match and accordingly his case was rejected by the competent authority. They have also submitted that as the competent authority after getting the Expert Advice have taken a conscious decision to reject the case of the applicant for appointment, the OA of the applicant should be dismissed. He has relied upon the judgment of Hon'ble Supreme Court in the case of *Union of India & Another Vs. Sarwan Ram & Another*<sup>2</sup> and also the judgment of CAT/Chandigarh Bench in the case of *Deepak Vs. Union of India and another*<sup>3</sup> and also the judgments of CAT Principal Bench in the case of *Devendra Kumar Vs. The General Manager( NR) and Others*<sup>4</sup>, *Pradeep Kumar Vs. UOI Through the General Manager (NR) and Others*<sup>5</sup>, *Praveen Kumar Vs. UOI through General Manager (Northern Railway) and Others*<sup>6</sup>, *Prakash Chand Meena and Amit Kumar Vs. UOI through the General Manager (NR) and others*<sup>7</sup>, *Rahul Mavai Vs. Union of India through Secretary, Ministry of Railways and Others*<sup>8</sup> and *Papendra Singh and Ors Vs. Union of India through the General Manager(NR) and Ors.*<sup>9</sup>, *Hajaru Deen Khan Vs. Union of India through the General Manager(NR) and Ors.*<sup>10</sup>

7. It is also observed that at the request of the counsel for the applicant, this Tribunal directed the respondents to produce the original records for the perusal of the Tribunal. Accordingly the respondents produced the original records at the time of hearing. From the perusal of the original records, we are of the opinion that the decision taken by the respondents is based on objective and reasonable examination and assessment and is neither arbitrary nor unreasonable.

<sup>2</sup> Order dated 8 October 2023 in SLP (C) 706/2014

<sup>3</sup> OA 1355/HR/2013

<sup>4</sup> OA 2356/2014

<sup>5</sup> OA 4143/2013

<sup>6</sup> OA 128/2015

<sup>7</sup> OA 416/2015 & OA 2064/2015

<sup>8</sup> OA 32/2016

<sup>9</sup> OA 2619/2015

<sup>10</sup> OA 440/2015



8. In view of the law laid down by the Hon'ble Supreme Court and also in view of the various judgments of the Tribunal, relied upon by the counsel for the respondents and in view of the facts and circumstances referred to above, the OA is dismissed. No order as to Costs.”

2. We are constrained to observe that the order passed by the learned Tribunal is extremely unsatisfactory. It does not partake of the character of a judicial order at all. The learned Tribunal has recorded no finding. Paras 1 to 5 record the contentions of the petitioner, as the applicant before the learned Tribunal, para 6 records the contentions of the respondent including the judgments on which the respondents were placing reliance. Thereafter, in paras 7 and 8, without discussing any of the facts or why and how the judgments would apply, the learned Tribunal has proceeded to dismiss the OA merely stating that dismissal was in view of the authorities cited prior thereto.

3. Such an order can obviously not sustain for an instant. It is accordingly, set aside.

4. We are then left with the question of whether we should remand this matter to the learned Tribunal or proceed to decide the case.

5. We are conscious of the fact that the petitioner has suffered three years of litigation before the learned Tribunal and another five years before this Court. It is eight years since the date when the OA was filed.

6. The petitioner appeared in the written examination on 27



October 2013 and successfully cleared it. His physical verification was also undertaken. His documents were also found to be in order on 21 May 2014, and he successfully cleared the medical examination. However, his candidature was rejected on 18 December 2014 without any reasons. On 22 March 2015, the respondents furnished, on their website, the reason for rejection, as mismatch in the handwriting/signature on the application form, OMR and document verification paper etc.

7. The only issue in controversy was thus with respect to the identity of the petitioner. 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 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.”

8. Thereafter, the report of the CFSL was obtained and submitted to the Court in a sealed cover, as recorded on 04 March 2024. This



Court addressed certain further queries to the CFSL and called for a fresh report.

9. The report has been produced before us in a sealed cover. We have seen the report. The CFSL has confirmed that the thumb impression of the petitioner *on all the documents relating to the examination/test* correspond to his admitted specimen thumb impression.

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

11. As the thumb impression of the petitioner has been found by the CFSL to be matching with his admitted thumb impression, we do not deem it appropriate to keep this matter any further. There is no reason for us to doubt the credibility of the decision of the CFSL. It is trite that the results of thumb impression analysis are far more precise than those of handwriting analysis.

12. In that view of the matter, the doubt regarding mismatch of the handwriting 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.

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



**14.** 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.

**15.** Compliance with this order be ensured within eight weeks from today.

**16.** The writ petition stands allowed in the aforesaid terms.

**C. HARI SHANKAR, J.**

**DR. SUDHIR KUMAR JAIN, J.**

**NOVEMBER 4, 2024/yg**