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

+ W.P.(C) 7623/2019

VIJAY 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. Pratima N. Lakra, CGSC with Mr. Chandan Prajapati, Advocate with Mr. Dinesh Prasad, OS.

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 19 February 2019 passed by the Central Administrative Tribunal, Principal Bench¹ in O.A. 4270/2018. We deem it appropriate to reproduce the order in its entirety :

“MA No.4834/2018

MA is allowed for the reasons stated in the Misc. Application. We have heard Mr. Rahul Sinha, counsel for applicant and Mr. Shailendra Tiwary, 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) Quash and set aside the result dt. 02.12.2015 passed by Respondents rejecting the candidature of 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/2013 as per his merit with all consequential benefits;

(c) 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 ground of 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/2013 dated 30.12.2013 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 he 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 judgments of Hon'ble Supreme Court in the case of *Chairman, Board of Mining Examination and Chief Inspector of Mines & Anr. v Ramjee*², *Union of India & Another v Sarwan Ram & Another*³, *Dr. Umrao Singh Choudhary v State of Madhya Pradesh & Anr.*⁴, *Syndicate Bank & Ors v Venaktesh Gururao Kurati*⁵, *Shankarshan Dass v UOI*⁶, *T. Jay Kumar v A. Gopu*⁷, *Bedanga Talukdar v Saifudaullah Khan and Ors.*⁸ and *Ekta Shakti Foundation v Govt. of NCT of Delhi*⁹ and also the judgment of CAT/Chandigarh Bench in the case of *Deepak v Union of India and another*¹⁰ and also the judgments of CAT Principal Bench in the case of *Devendra Kumar v The General Manager (NR) and Others*¹¹, *Pradeep Kumar v UOI Through the General Manager (NR) and Others*¹², *Rahul Mavai v Union of India through Secretary, Ministry of Railways and Others*¹³ and *Papendra Singh and Ors v Union of India through the General Manager (NR) and Ors.*¹⁴, *Hajaru Deen Khan Vs. Union of India through the General Manager (NR) and Ors.*¹⁵, *Praveen Kumar v Railway Recruitment Cell through the Chairman*¹⁶.

7. 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

² AIR 1977 SC 965

³ Order dated 8 October 2014 in SLP (C) 706/2014

⁴ (1994) 4 SCC 328

⁵ (2006) 3 SCC 150

⁶ AIR 1991 SC 1612

⁷ (2008) 9 SCC 403

⁸ (2011) 12 SCC 85

⁹ (2006) 10 SCC 337

¹⁰ OA 1355/HR/2013

¹¹ OA 2356/2014

¹² Order dated 16 December 2015 in OA 4143/2013 with connected OAs.

¹³ Order dated 11 July 2018 in OA 32/2016

¹⁴ Order dated 24 August 2018 in OA 2619/2015

¹⁵ Order dated 17 December 2018 in OA 440/2015

¹⁶ OA 2061/2015



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 para 7, 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 only issue in controversy was with respect to the identity of the petitioner owing to a suspected mismatch between his handwriting on various documents submitted during the selection process.

7. 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 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.

9. The said report has been furnished by the respondents in a sealed cover, and seen by us. The report confirms that the thumb impression of the petitioner on the documents furnished during selection correspond to his admitted specimen thumb impressions.

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 FSL 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 FSL.

12. 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 December 2013 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 December 2013 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. Let 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

Click here to check corrigendum, if any