

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 5676/2022

Ramesh Kumar S/o Shri Juglal, Aged About 25 Years, R/o Village Bishanpura, Tehsil Buhana, District Jhunjhunu (Raj.) Applicant
Applied For Post Of Group-D In The Rrb, Ajmer

-----Petitioner

Versus

Railway Recruitment Board, North-West Railway, Power House Road, Jaipur Through Its Chairman.

-----Respondent

Connected With

D.B. Civil Writ Petition No. 5428/2022

Pappu Ram Bajiya S/o Shri Jhabar Mal, Aged About 30 Years, R/o Village Post Lampuwa, Dhani Jhoda Wali, Ward No.5 Via Reengus, District Sikar (The Applicant Has Applied For The Post Of Railway Group-D Level-1St Posts)

-----Petitioner

Versus

1. Union Of India, Through The General Manager, North Western Railway, Jaipur.
2. The Railway Recruitment Board, Ministry Of Railway, 2010, Nehru Marg, Near Ambedkar Circle, Railway Colony, Ajmer Rajasthan 305028
3. The Chairman (Recruitment) North Western Railway Recruitment Cell, 1St Floor, Railway Staff Rest House, Opposite Drm Office, Power House Road Jaipur-302006
4. Chief General Manager, North Western Railway, Hq Office, Near Jawahar Circle, Jaipur 302017
5. Assistant Personnel Officer, North Western Railway Recruitment Cell, Railway Staff Rest House, Opposite Drm Office, Power House Road, Jaipur-302006

-----Respondents

D.B. Civil Writ Petition No. 5429/2022

Manoj Kumar Kumawat S/o Shri Ram Narayan Kumawat, Aged About 24 Years, R/o Nahar Ki Dhani, Boraj Via Fulera, Tehsil Mozamabad District Jaipur (The Applicant Has Applied For The Post Of Railway Group-D Level-1St Posts)



-----Petitioner

Versus

1. Union Of India, Through The General Manager, North Western Railway, Jaipur.
2. The Railway Recruitment Board, Ministry Of Railway, 2010, Nehru Marg, Near Ambedkar Circle, Railway Colony, Ajmer Rajasthan 305028
3. The Chairman (Recruitment), North Western Railway Recruitment Cell, 1St Floor, Railway Staff Rest House, Opposite Drm Office, Power House Road Jaipur-302006
4. Chief General Manager, North Western Railway Hq Office, Near Jawahar Circle, Jaipur 302017
5. Assistant Personnel Officer, North Western Railway Recruitment Cell, Railway Staff Rest House, Opposite Drm Office, Power House Road, Jaipur-302006

-----Respondents

D.B. Civil Writ Petition No. 5446/2022

Naresh Kumar S/o Shri Birbal Ram, Aged About 27 Years, R/o Vpo Gulpura Rajgarh District Churu (The Applicant Has Applied For The Post Of Railway Group-D Level-1St Posts)

-----Petitioner

Versus

1. Union Of India, Through The General Manager, North Western Railway, Jaipur.
2. The Railway Recruitment Board, Ministry Of Railway, 2010, Nehru Marg, Near Ambedkar Circle, Railway Colony, Ajmer Rajasthan 305028
3. The Chairman (Recruitment) North Western Railway Recruitment Cell, 1St Floor, Railway Staff Rest House, Opposite Drm Office, Power House Road Jaipur-302006
4. Chief General Manager, North Western Railway, Hq Office, Near Jawahar Circle, Jaipur 302017
5. Assistant Personnel Officer, North Western Railway Recruitment Cell, Railway Staff Rest House, Opposite Drm Office, Power House Road, Jaipur-302006

-----Respondents

D.B. Civil Writ Petition No. 5453/2022



Ashok Kumar Bhalothia S/o Shri Bharthu Singh Bhalothia, Aged About 37 Years, R/o Plot No.81, Janak Vihar, Panchyawala, Sirsi Road, Jaipur Rajasthan (The Applicant Has Applied For The Post Of Railway Group-D Level-1St Posts)

-----Petitioner

Versus

1. Union Of India, Through The General Manager, North Western Railway Jaipur.
2. The Railway Recruitment Board, Ministry Of Railway, 2010, Nehru Marg, Near Ambedkar Circle, Railway Colony, Ajmer Rajasthan 305028
3. The Chairman (Recruitment) North Western Railway Recruitment Cell, 1St Floor, Railway Staff Rest House, Opposite Drm Office, Power House Road Jaipur-302006
4. Chief General Manager, North Western Railway, Hq Office, Near Jawahar Circle, Jaipur 302017
5. Assistant Personnel Officer, North Western Railway Recruitment Cell, Railway Staff Rest House, Opposite Drm Office, Power House Road, Jaipur-302006

-----Respondents

For Petitioner(s)	:	Mr. Abhishek B. Sharma Mr. Mahipal Singh Kharra with Mr. Dharmendra Fageria
For Respondent(s)	:	Ms. Manju Dave with Mr. Ankit Krishan Garg Mr. Ashish Kumar

HON'BLE MR. JUSTICE PANKAJ BHANDARI
HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Order

03/09/2024

1. Petitioners have preferred this writ petitions aggrieved by order dated 11.03.2022 passed by Central Administrative Tribunal, Jaipur Bench, Jaipur, whereby OA filed by petitioners were rejected.

2. It is contended by counsel for the petitioners that candidature of the petitioners was rejected on the ground that they had filled the CBT call letter in capital letters, which was contrary to the advertisement issued for selection to the post of Level 1 of 7th CPC Pay Matrix. It is also contended that the respondents cannot debar the petitioners' appointment as they had cleared the computer test, physical test, medical test and document verification. It is further contended that there is no nexus in filling the call letters with running handwriting and capital letters and merely because the form was filled in capital letters, the same should not be the ground for disqualification of the petitioners.

3. Counsel for the petitioners has placed reliance upon *Union of India vs. Ashok Kumar Saini: D.B. Civil Writ Petition No.2225/2024*; *Union of India vs. Manish Sharma: D.B. Civil Writ Petition No.7445/2021*; *Union of India vs. Rakesh Kumar Yadav: D.B. Civil Writ Petition No. 7925/2023*; *Sanjeev Kumar Saini vs Union of India: D.B. Civil Writ Petition No. 11263/2014* & *Union of India vs Harendra Gawaria: D.B. Civil Writ Petition No.1587/2022* and *Ajay Kumar Mishra vs Union of India: W.P(C) No.11642/2016* decided by Delhi High Court on 23.12.2016.

4. Counsel for Union of India has opposed the writ petitions. It is contended that in the advertisement dated 10.02.2018 which was issued for post of Level 1 of 7th CPC Pay Matrix, it is specifically mentioned in Clause 16.4 that candidates will have to write the paragraph of self declaration, sign and affix LTI at the venue of the CBT in the presence of the invigilator at the



Examination Hall ONLY and hand over the same to the invigilator before the conclusion of the examination. Candidates writing the self declaration para and signing in 'CAPITAL' letters will be rejected. It is also contended that the main purpose for getting the same written in running handwriting is to ensure that there is no impersonation and the candidate who filled the examination form is actually the one, who appears in the examination. It is further contended that the following was mentioned in the E-call letter:- "COPY THE DECLARATION DISPLAYED ON YOUR SCREEN IN YOUR RUNNING HANDWRITING, NOT IN BLOCK LETTERS, ONLY IN THE PRESENCE OF INVIGILATOR ON EXAMINATION DAY." It is contended that many applications have been rejected on non-compliance of this mandatory condition.

5. Counsel for the respondents have placed reliance upon *Union of India & Ors. vs Mahendra Singh*: **MANU/SC/0919/2022**; *Indian Airlines Corporation vs Capt. K.C. Shukla & Ors.*: **(1993) 1 SCC 17**; *Manish Kumar Shahi vs State of Bihar & Ors.*: **(2010) 12 SCC 576**; *Union of India & Anr. Vs Sarwan Ram & Anr.*: **Civil Appeal No.9388/2014** decided by Apex Court on 08.10.2014 and *Bedanga Talukdar vs Saifudaullah Khan & Ors.*: **MANU/SC/1143/2011**.

6. We have considered the contentions.

7. In the Centralised Employment Notice No.02/2018 dated 10.02.2018 with regard to E-call letter, it was mentioned in Clause 16.4 that candidate should leave the spaces unfilled provided in the downloaded e-call letter for writing self declaration paragraph, signature and left thumb impression while coming for the exam. It was also mentioned that candidates will have to write

the paragraph of self declaration, sign and affix LTI at the venue of the CBT, in the presence of the invigilator at the Examination Hall only, and hand over the same to the invigilator before the conclusion of the examination. It was also mentioned that candidates writing the self declaration para and signing in 'CAPITAL' letters will be rejected. Clause 16.4 made it clear that candidates have to come to the venue of the CBT with the unfilled form and self declaration has to be filled in running handwriting and if it is filled in CAPITAL letters it will be rejected. In the call letters that has been issued also, it was clearly mentioned that "COPY THE DECLARATION DISPLAYED ON YOUR SCREEN IN YOUR RUNNING HANDWRITING, NOT IN BLOCK LETTERS, ONLY IN THE PRESENCE OF INVIGILATOR ON EXAMINATION DAY." Petitioner has filled the call letter in capital letters and that is the reason why candidature of the petitioner has been rejected.

8. ***Union of India vs Ashok Kumar Saini(supra)*** on which reliance has been placed on behalf of petitioner was a case where the declaration was filled in English as well as in Hindi. Co-ordinate Bench of High Court held that object of reproduction of the declaration was to ensure that the candidate himself was appearing in the examination and in case of dispute, the form can be sent to the forensic experts for comparing the writing, stood achieved by respondent appending signature as well as left thumb impression on the form and OMR sheet. In that case, Union of India, who was the petitioner before the Court, failed to produce examination rules before the Tribunal as well as before the Court providing for rejection of the case on non-fulfillment of instructions mentioned in the OMR sheet and form.

9. In ***Union of India vs Manish Sharma(supra)***, Division Bench of this Court dismissed the writ petition filed by Union of India wherein the relevant condition/clause 1.8 reads as under:-

"Signature of the candidates on all the documents should be identical, either in English or Hindi, and must be in running handwriting and not in block/capital of disjoined letters. Signature in different style or language at the time CBT, PET and DV etc may result in cancellation of candidature."

10. In ***Ajay Kumar Mishra vs Union of India & Ors.(supra)***, the matter pertained to wrong entry of date of birth. The Delhi High Court held that it was mere inadvertent error and it is not an intentional representation as school certificate was submitted wherein date of birth was mentioned. The Court observed that cancellation on the ground of typographical error is arbitrary, unreasonably harsh and allowed the writ petition.

11. Contra to the judgment referred by counsel for respondents, ***Union of India & Ors. vs Mahendra Singh(supra)*** wherein it was observed that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. The Court also observed that requirement to write a paragraph in the application form was to compare the handwriting of the candidate in the event of any dispute of identity which may arise as to whether the same person has appeared for the written examination who had filled up the application form. The Court further went on to say that the question required to be examined herein is to the effect of violation of the condition provided in the advertisement that the application has to be in the language for which the candidates want to attempt the question paper, and

what is the effect of using different language in the application form than the OMR sheet. The Apex Court dismissed the writ petition as the petitioner has used different language for filling up of the application form and OMR answer book.

12. In ***Bedanga Talukdar vs Saifudaullah Khan & Ors.***

(supra) the Apex Court held as under:-

"28. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, 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. There can not be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant Statutory Rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.

29. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability

certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of respondent No. 1. Such a course would not be permissible as it would violate the mandate of Article 14 and 16 of the Constitution of India.

30. In our opinion, the High Court was in error in concluding that the respondent No.3 had not treated the condition with regard to the submission of the certificate along with the application or before appearing in the preliminary examination, as mandatory. The aforesaid finding, in our opinion, is contrary to the record. In its resolution dated 21st May, 2010, the Commission has recorded the following conclusions:-

"Though Shri S. Khan had mentioned in his letter dated 10.12.2009 that he was resubmitting the Identity Card with regard to Locomotor Disability he, in fact, had submitted the documentary proof of his Locomotor Disability for the first time to the office of the A.P.S.C. through his above letter dated 10.12.2009. However, after receiving the Identity Card the matter was placed before the full Commission to decide whether the Commission can act on an essential document not submitted earlier as per terms of advertisement but submitted after completion of entire process of selection.

The Commission while examining the matter in details observed that Shri S. Khan was treated as General candidate all along in the examination process and was not treated as Physically Handicapped with Locomotor Disability. Prior to taking decision on Shri S. Khan it was also looked into by the Commission, whether any other candidate's any essential document relating to right/benefits etc. not furnished with the application or at the time of interview but submitted after interview was accepted or not. From the record, it was found that prior to Shri S. Khan's case, one Smt. Anima Baishya had submitted an application before the Chairperson on 26.2.2009 claiming herself to be a S.C. candidate for the first time. But her claim for treating herself as a S.C. candidate was not entertained on the grounds that she applied as a General candidate and the caste certificate in support of her claim as S.C. candidate was furnished long after completion of examination process."

13. In **Un**

Anr., the Apex Court held that condition No. 8.7(i) is one of the conditions mandate mentioned in the employment notice. The Court observed that in non-compliance of such condition, it was always open to the competent authority to reject such application being incomplete. The Apex Court further want to say that it was not open to the High Court to direct the authorities to consider the case of respondent no. 1 for appointment, sitting in appeal over the scrutiny of application by referring to certain certificate of length of service. High Court under Article 226 of the Constitution of India is not competent to scrutinize the applications filed for appointment and cannot substitute its own opinion based on some evidence to come to a conclusion whether the application form is defective.

12. We are of the considered view that in the present case, the applicants were clearly informed in the advertisement, both in English and Hindi that the declaration form has to be filled in running handwriting and not in block letters. In the advertisement itself, it was mentioned that if the self declaration is filled in capital letters, the candidature would be cancelled. The same was also reflected in the E-call letter, wherein also it was mentioned that declaration displayed on screen has to be filled in running handwriting and not in block letters, thus, it cannot be said that it was a bonafide error. It is also evident that for 31889 posts, lacs of candidates appeared in the examination and many candidatures have been cancelled for not complying with the mandatory requirement of Clause 16.4 of the advertisement.

14. We are also of the considered view that once procedure is prescribed in the advertisement, the same has to be religiously followed. The learned Central Administrative Tribunal has dealt with the questions and the judgments referred to by the counsel for the petitioners. The rejection of the candidature of the petitioners is in accordance with advertisement issued and the same cannot be said to be contrary or infringing the rights of the petitioners, hence we do not find any force in the present writ petitions and the same are accordingly, dismissed.

15. All pending applications stands disposed.

(PRAVEER BHATNAGAR),J

(PANKAJ BHANDARI),J