

26.02.2025
(D/L-8+9)
Ct. No.4
(B.K.N.)

R.V.W. 199 of 2016
with
CAN 1 of 2016 (Old No. CAN 6583 of 2016)
CAN 2 of 2016 (Old No. CAN 6584 of 2016)

Ujjal Dutta
Vs.
Union of India & Ors.

With
W.P.C.T. 125 of 2015

Ujjal Dutta
Vs.
Union of India & Ors.

Mr. R. Mukherjee,
Mr. M. F. Rehemman,
Ms. Satabdi Dey
...for the Petitioner

Mr. Partha Ghosh
...for the U.O.I.

In Re: CAN 1 of 2016 (Old No. CAN 6583 of 2016)

Application being CAN 1 of 2016 (Old No. CAN 6583 of 2016) is allowed.

In Re: CAN 2 of 2016 (Old No. CAN 6584 of 2016)

Application being CAN 2 of 2016 (Old No. CAN 6584 of 2016) is disposed of.

In Re: R.V.W. 199 of 2016

1. A recruitment process for the persons having certain disability was undertaken by the respondents wherein the petitioner participated.

The recruitment was under a special drive for six months in the year 2012. The petitioner was not found suitable for recruitment as Technician Grade-III (Machinist) on the ground that he was found to be visually impaired whereas the requirement was of having a low visibility. The writ petitioner moved O.A. No. 831 of 2014 unsuccessfully. Before the Tribunal the petitioner did not produce any authentic certificate claiming to have low vision though in the recruitment process he was found to be visually impaired by the recruitment board.

2. Thereafter he preferred a Review before the Tribunal. In the Review Application bearing no. R.A. 26 of 2014 he relied upon a certificate said to be issued by a charitable eye hospital. The Tribunal refused to take into consideration the certificate said to be issued by a private organization on the ground that the prayer in the review was not within the limited scope for exercise of review jurisdiction as contained in Order 47 Rule 1, C.P.C. and had also found the Review Application to be belated by three months.
3. The order passed in the O.A. No. 831 of 2014 as well as the review application before the tribunal bearing No. R.A. 26 of 2014 were challenged by the petitioner in WPCT 125 of 2015. The writ petition

was also dismissed since the petitioner had not placed on record any certificate issued by a competent Government Medical Authority certifying that he had low vision, and that he was not visually impaired. Before the writ Court, it was submitted on behalf of the petitioner that he had a certificate issued by Durgapur Sub-Divisional Hospital indicating that he was having low visibility. He, however, did not produce the same as it was not in his possession. The writ Court also took notice of the fact that even copy of the certificate claimed to have been issued by the Durgapur Sub-Divisional Hospital was not annexed either to the original application, review petition or before the Writ Court. In the circumstances the writ Court dismissed the petitioner's writ petition without interfering the orders passed by the tribunal both in the original application as well as the review application. The petitioner thereafter has preferred the present review application seeking review of the order passed by the writ Court, relevant extract of which reads as follows::

“It is not possible to accept the Petitioner's explanation for not relying on the disability certificate issued by the Durgapur Sub Divisional Hospital. If it had, in fact, been issued by the Hospital on 12th September, 2014, there was no reason for not annexing that certificate to the Review Petition. The Petitioner has not even cared to annex a copy of that certificate to the present writ petition. Therefore, he cannot claim the

benefit of either this certificate or a certificate issued by a Doctor in Indore.

The requirement of the Railways for recruiting a person to the post of Technician Grade III (Machinist) was that he ought to have low vision. The certificate initially submitted by the Petitioner to the Railways indicated that he was completely blind. Therefore, the Railways rejected his candidature for the post. Pursuant to the order of the Tribunal, the Petitioner was examined by the Medical Board of the Railways and it was found that he did not qualify for the post.

We see no reason to interfere with the orders passed by the Tribunal both in the Original Application as well as the Review Application. The Petition is, therefore, dismissed with no order as to costs.

However, this will not preclude the Petitioner from applying for recruitment with the Railways in future.

Photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties upon compliance of all necessary formalities.”

4. The learned advocate for the petitioner submits that in spite of having a certificate issued by the government authority dated 12th September, 2014 his candidature has been ignored.
5. In view of the facts noted above it is more than obvious that the certificate dated 12th September, 2014 now being relied upon was never produced by the petitioner, neither, before the Tribunal in the Original Application, nor in the Writ Petition. A certificate said to have been issued on 12th September, 2014 is now being relied upon in this proceedings, when the recruitment process under a

special drive lasted only for six months, much earlier, in the year 2012.

6. The prayer made in the present Review Application is also not acceptable in view of the limited jurisdiction being exercised by this Court in terms of Order 47 Rule 1, C.P.C. In the instant case the petitioner is not alleging any error apparent on the face of the record.
7. We also find that it is not the petitioner's case that in spite of due diligence he could not produce the certificate dated 12th September, 2014, neither, before the Tribunal in the Original Application, nor in the Review. In fact in the review proceedings he relied upon a certificate issued by a private charitable hospital.
8. In view of the above circumstances, and without going into the veracity of the certificate dated 12th September, 2014, we find that there is no scope for review of the order passed in the writ petition.
9. The Review Application is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)