

(2015) 09 PAT CK 0137
In the Patna High Court
Case No : CWJC No. 21524 of 2013

Kaushal Kumar

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 04-09-2015

Acts Referred:

Citation : (2015) 4 PLJR 513

Hon'ble Judges : Navaniti Prasad Singh, J.

Bench : Single Bench

Advocate : Nityanand Mishra, for the Appellant

Final Decision : Dismissed

Judgement

Navaniti Prasad Singh, J.—The petitioner had applied in the East Central Railway for Group "D" post under Employment Notice No. 1/07 (Gr. "D"), and having taken the examination, which included physical and written examination, when he was not called for medical test, he sought information. At this stage, he was informed that his candidature had been cancelled. He moved the Central Administrative Tribunal, Patna Bench, Patna. Before the Tribunal the first stand of the Railway was that seeing difference in the writing, his thumb impressions were verified by a Finger Print Expert. He opined that there was difference in thumb impression as between the application and other forms submitted. Later, the defence was taken that the applicant had not himself filled up the forms, and his handwriting greatly differed as between the application form and other forms where similar declarations were required to be made. The Tribunal on the averment itself, dismissed the case. Hence, this writ petition. Heard learned counsel for the petitioner and learned counsel for the Railway, and with their consent this writ petition is being disposed of at this stage itself.

2. In course of argument, learned counsel for the petitioner submitted that admittedly it was an application for Group "D", Class IV post. The persons who are applicants are not well-educated. They come from a very humble

background. They do not understand the full implication of technical requirement in filling up the form. He further submits that there is no charge of any impersonation or any imposter appearing in the written examination. In such view of facts, the Court may take a lenient view of the matter in respect of not filling up the form in his own handwriting. The first thing is that this is a tacit admission that the application form was not filled up by the petitioner himself. Much as we would have liked to interfere in the matter considering it to be a technical breach, and considering that it was a Group "D" post, our hands are tied by the conditions of the Advertisement, which may be noted hereunder:--

6.4. The candidates have to fill up required information with black gel pen/Black Ball Point pen in his/her own handwriting.

xxx xxx xxx

6.10. Candidates are required to copy the following para (Declaration) in his/her own handwriting, in space provided at Column No. 6 in the Application Form.

"I do hereby declare that the facts and evidences given by me in the above application are true, complete and correct to the best of my knowledge and belief. In the event of any wrong statement/discrepancy in the particulars being detected at any stage, my candidature/service will be liable for cancellation/termination without any notice."

xxxx xxx xxx

xxxx xxx xxx

12. Invalid Applications:--The applications having any of the following deficiencies, discrepancies or irregularities will be summarily rejected:--

(i) xx xx xx

(vii) Applications not filled in English or Hindi or not filled by candidate in his own handwriting.

(viii) Applications without para 06 of Application Form, written in candidate's own handwriting."

3. To us, the rule of interpretation leaves no manner of doubt that where conditions are stipulated and contingency to follow, on failure to abide by the conditions specified, the requirement would be mandatory. Here, in unequivocal terms it is stated that the application form has to be filled up by the candidate himself in his own handwriting. The declaration which has to be accompanied has to be in his own handwriting. The consequences are provided in clause 12, clearly stipulating that the application in breach thereof would be an invalid application and would be summarily rejected. This being the mandatory condition with consequence being invalidation, we cannot change the same. Accordingly, we find no merit in the application. It is, accordingly, dismissed.