
(2019) 03 CAT CK 0029

In the Central Administrative Tribunal

Case No : Original Application No. 2389 Of 2016

Man Mohan

APPELLANT

Vs

Secretary Union Of India Through The General Manager

RESPONDENT

Date of Decision : 05-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0029

Hon'ble Judges : Nita Chowdhury, J;S.N. Terdal, J

Bench : Division Bench

Advocate : Yogesh Sharma, Kripa Shankar Prasad

Final Decision : Dismissed

Judgement

Nita Chowdhury, J

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned rejection information available on the website (Annex.A/1) by which case of the applicant has been rejected, declaring to the effect that the same is illegal, arbitrary and discriminatory and consequently, pass an order directing the respondents to issue the appointment order to the applicant for suitable posts at an early date with all the consequential benefits from the due date i.e. from the date of issuance of the appointment letters to the similarly situated persons.

(ii) That the Hon'ble Tribunal may graciously be pleased to pass an order of verification of signature and handwriting of the applicant by independent handwriting expert/C/FL.

(iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation."

3. The grievance of the applicant in this case is against the decision of the respondents given on website (Annexure A/1) by which respondent no.2 rejected the candidature of the applicant for his appointment to Group 'D' posts in Railway Department for the year 2014 on the ground that the applicant done excessive cutting, erasing and used fluid etc.on OMR sheet, which according to the applicant is totally wrong and baseless reason, without any justification, without giving any show cause notice and without giving any reasonable opportunity to him, which amounts to arbitrary and discriminatory in the eyes of law.

4. Pursuant to notice issued to the respondents, they filed their reply in which they stated that the applicant had participated in the selection process, i.e., written examination followed by PET which was qualifying in nature. They further stated that before the written examination, it was advised to all concerned candidates that OMR answer sheet is to be filled up properly failing which candidature will be cancelled. It was stipulated under instructions on the OMR sheet itself that changes are not permissible. It was informed to all concerned candidates that OMR answer sheet is to be filled up properly failing which candidature will be cancelled. It was also stipulated under instructions on the OMR sheet itself that once answer is marked for a specific question by darkening the bubble subsequent changes are not permissible. During the process of post examination scrutiny of original OMR vis-à-vis carbon copy of OMR in respect of the cases of shortlisted candidates by a Committee nominated for the purpose, it had been observed that applicant has done excessive cutting and erasing on OMR sheet or used fluid on the OMR sheet against the instructions. Accordingly, his candidature was cancelled by the competent authority i.e., Chairman, RRC for violation of examination conditions.

5. After hearing learned counsel for the parties and also perusing the pleadings available on record, this Court observes that the issue involved in this case whether the rejection of candidature of the applicant for the said post on the ground of excessive cutting and erasing on OMR sheet or used fluid on the OMR sheet by the applicant is in consonance with the instructions on the subject or not.

6. We have perused OMR sheet produced by the respondents. We find that the applicant has violated the directions given for filling of OMR sheet. Further it is the categorical stand of the respondents that during the process of post examination scrutiny of original OMR vis-à-vis carbon copy of OMR in respect of the cases of shortlisted candidates by a Committee nominated for the purpose, it had been observed that applicant has done excessive cutting and erasing on OMR sheet or used fluid on the OMR sheet, which amounts to circumventing the clear instructions provided in the OMR sheet itself as well as advance instructions given to the candidates in relation to how to fill the OMR sheet.

7. It is not the case of the applicant that he has not done any cutting, erasing as well as not used fluid in his OMR sheet, but his main contention that his candidature was rejected on the said ground only after having done all the

formalities in relation to his appointment to the said post as he has already been shortlisted on the basis of merit of selected candidates, without issuing any show cause notice which is against the principle of natural justice. It is an admitted fact that scrutiny of original OMR sheets vis-à-vis carbon copies of OMR sheets of all the cases of shortlisted candidates by a Committee nominated for this purpose has been done. The object behind the same is to ascertain that OMR of the candidates has been filed in as per instructions, as well as to see that shortlisted candidates have not committed any violation of instructions provided to them and the fact is that respondents have adopted a uniform policy in such similar kind of invalid cases. As such deviation from the said policy in any particular case would amount to discrimination to other candidates, all such shortlisted candidates were dealt with equally. It is not the case of the applicant that only he has been subjected to such scrutiny by the Committee constituted by the respondents for this purpose. As such the said main contention of the applicant is not sustainable in the eyes of law, particularly having regard to clear instructions having been given to all the candidates in the OMR sheet itself or by advance instructions for following the same strictly.

8. Further the counsel for the respondents also drew our attention to the fact that because of the aforesaid violation of the condition, his candidature was cancelled and this issue of violation of examination conditions as involved in this case is no more res integra in view of the decision dated 2/9.7.2014 of Chandigarh Bench of this Tribunal in OA No.1355/HR/2013, Order dated 27.04.2012/01.05.2012 in OA No.1181/2012 and Order dated 30.5.2016 in OA 1966 of 2015 of the Principal Bench of this Tribunal, as also of the Hon'ble Apex Court judgment in SLP (C) No.706/2014 (UOI and another vs. Sarwan Ram).

9. In the above facts and circumstances and for the foregoing reasons, this Court does not find merit in the present OA and it is dismissed accordingly. There shall be no order as to costs.