

(2019) 01 CAT CK 0071
In the Central Administrative Tribunal
Case No : Original Application No. 126 Of 2015

Sanehad And Ors

APPELLANT

Vs

Union Of India through the General Manager And Ors

RESPONDENT

Date of Decision : 17-01-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 16, 21

Citation : (2019) 01 CAT CK 0071

Hon'ble Judges : Nita Chowdhury, Member (A), S.N. Terdal, J

Bench : Division Bench

Advocate : U. Srivastava, V.S.R. Krishna

Final Decision : Dismissed

Judgement

S.N. Terdal, J

1. We have heard Mr. U.Srivastava, counsel for applicants and Mr. V.S.R. Krishna, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

"(a) Directing the respondents to place the relevant records pertaining to the present OA before their Lordships for the proper adjudication in the matter in the interest of justice, and thereafter;

(b) To quash and setting aside the impugned orders dt. 12.12.14 by which the case of applicants have been rejected by the experts as alleged by the respondents after declaring the same is a non-speaking, unreasoned, bald and cryptic order which is illegal, biased, perverse, unjust, arbitrary, malafide, unconstitutional, against the principles of natural justice, violative of articles 14, 16 & 21 of the constitution of India against the mandatory provisions of law, bad in law and not sustainable in the eyes of law and thereafter;

(c) Directing to respondents to appoint the applicants against the vacancies

notified under the Employment Notification No. 220E/Open Mkt./RRC/2012 dt.30.08.12 with all other consequential benefits from the date from which the batch mates of the applicants have been appointed etc;

(d) Allowing the OA of the applicants with all other consequential benefits and costs.

(e) Any other fit and proper relief may also be granted to the applicants."

3. The crucial question arising in this case is whether the rejection of the appointment of the applicants on the mismatch in the handwriting/signature of the applicants 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 applicants had applied for Group 'D' post in response to the Employment Notification No.220-E/Open Mkt./RRC/2012 dated 30.08.2012 published in the Employment News issued by the respondents. They had successfully cleared the written examination and physical efficiency test. They were 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 applicants were rejected.

5. The counsel for the applicants vehemently submitted that no opportunity was given to the applicants to explain the mismatch in the handwriting/signature, as such there is violation of principle of natural justice and on that ground they have prayed for the above stated relief. In support of his contention, the counsel for the applicants has relied on the following judgments/orders of the High Court and the Tribunal.

"(1) Balram Katara Vs. Union of India & Anr (WP (C) 5465/2012- High Court of Delhi)

(2) Aman Kumar Vs. Union of India & Anr (WP (C) 5454/2012- High Court of Delhi)

(3) Pradeep Kumar Vs. UOI through the General Manager (NR) & Ors (OA no.4143/2013 with connected OAs-Principal Bench)

(4) Dipak Patar Vs. UOI & Ors (OA 040-00220 of 2014 (Guwahati Bench, CAT)

(5) Suraj Kumar Vs. Northeast Frontier Railway represented by the Genl. Manager (NFR & Ors (OA No. 040-00386 of 2015 (Guwahati Bench, CAT)" But, however, the law laid down in the above cases are not applicable in the case of the present applicants in view of the facts and submissions made on behalf of the respondents also stated in the counter affidavit that the applicants have not yet been appointed, and as such they need not be given Show Cause Notice before publishing the impugned rejection orders, particularly in view of the fact that lakhs of candidates applied in the said examination and in case of thousands of such similarly placed candidates, action has been taken and no malafide is either

alleged or established by the applicants on the part of the respondents

6. The respondents in their counter affidavit also stated that the admission of the candidates 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 applicants 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 hand-writing/Signature on the relevant papers. The said Documents Expert after examining the relevant documents with reference to the applicants advised that the hand-writing/signature of the applicants do not match and accordingly their 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 applicants for appointment, the OA of the applicants should be dismissed. He has relied upon the judgment of Hon'ble Supreme Court in the case of Union of India & Another Vs. Sarwan Ram & Another (SLP (C) No. 706/2014 and also the judgment of Hon'ble High Court of Punjab & Haryana in Parveen Kumar Vs. CAT, Chandigarh and others (CWP-12264-2016) and also the judgment of Hon'ble High Court of Delhi in Varun Bhardwaj Vs. State Bank of India and Ors. (LPA 155/2013) and also the order of CAT/Chandigarh Bench in the case of Deepak Vs. Union of India and another (OA No. 1355/HR/2013) and also the judgments of CAT-Principal Bench in the case of Devendra Kumar Vs. The General Manager(NR) and Others (OA No. 2356/2014), Pradeep Kumar Vs. UOI Through the General Manager (NR) and Others (OA No. 4143/2013 with connected OAs), Rahul Mavai Vs. Union of India through Secretary, Ministry of Railways and Others (OA 32/2016) and Papendra Singh and Ors Vs. Union of India through the General Manager(NR) and Ors (OA 2619/2015).

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.