

(2020) 01 PAT CK 0364

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 17842 Of 2018

Union Of India And Ors

APPELLANT

Vs

Subodh Kumar

RESPONDENT

Date of Decision : 24-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0364

Hon'ble Judges : Shivaji Pandey, J;Anjani Kumar Sharan, J

Bench : Division Bench

Advocate : Bijoy Kumar Sinha

Final Decision : Disposed Of

Judgement

Heard learned counsel for the parties.

In the present case, the Railway has challenged the order dated 4.1.2018 passed in O.A./050/00024/2014, whereby and whereunder, the Tribunal has given direction to the respondents (petitioners herein) to consider the candidature of the petitioner (respondent herein) and if there is no any other impediment except the qualification, which is the reason for refusing to consider the candidature of the respondent, the respondent would be appointed.

The short fact of this case is that an advertisement was published being Employment Notice No. 1/2005 for the post of Apprentice in Diesel Locomotive Works, Varanasi for which the educational qualification required was Matric with ITI. The petitioner has obtained the Matriculation certificate from the Bihar Sanskrit Shiksha Board and has also completed ITI. He was successful in the written test and was selected for the Apprentice Training which he was declared successful in the trade of Beldor. When he was not called for training in Group 'D' post, he made representation on 12.12.2008, in turn, he was informed vide letter dated 7.2.2009 that he cannot be appointed because the certificate from Bihar Sanskrit Shiksha Board is not recognized. But, the Railway administration failed to appreciate that the Bihar Sanskrit Shiksha Board is a validly constituted

Board by the State of Bihar and the certificate issued by the Bihar School Examination is binding equally to the Railway.

Learned counsel for the petitioners submits that the certificate was not recognized by the Council of Boards of School Education in India, Delhi (in short COBSE) but, in the present case, the advertisement itself mentions the qualification as Matriculation or equivalent and, certainly, it cannot be said that the certificate, issued by the Bihar Sanskrit Shiksha Board is not equivalent to the Matriculation and, that too, the Board has been constituted and created by the State of Bihar under the statutory provision and the persons, who have obtained certificate from this Board, they are allowed to pursue higher study in any part of the India and even to the Central University, constituted by the Central Government and further says that in an identical matter, this issue came for consideration before this Court in C.W.J.C. No. 7365 of 2011 (The General Manager & Ors. Vs. Shyam Bihari Paswan & Anr.) in which, vide order dated 6.9.2011, it has been held that the certificate issued by the Sanskrit Shiksha Board is proper and valid degree and is binding in nature and the view taken by the Railway administration is quite misconceived and not sustained and approve the order passed by the Tribunal. Further in another case, C.W.J.C. No. 10345 of 2004, the same view has been taken by this Court. In that view of the matter, in the present case, the Tribunal has rightly passed the order in favour of the respondent.

Learned counsel for the petitioners has brought to the notice of this Court that the competent authority, who was to appoint the respondent, in course of time, has changed as he has mentioned the same in paragraph no.10 of the present writ application.

The order of the Tribunal is binding on the Railway administration including all the authorities who were at the relevant time competent to appoint or subsequently. So, whosoever be the authority competent to appoint the respondent, it will be binding upon him/them and it is further directed to the authority concerned to act upon in terms of the order passed by the Tribunal within a period of eight weeks from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this writ application is disposed of.