
(2023) 05 PAT CK 0050

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 9767 Of 2017

Union Of India

APPELLANT

Vs

Suresh Chand Meena

RESPONDENT

Date of Decision : 17-05-2023

Acts Referred:

Citation : (2023) 05 PAT CK 0050

Hon'ble Judges : P. B. Bajanthri, J; Arun Kumar Jha, J

Bench : Division Bench

Advocate : Pradeep Kumar, Ratnesh Kumar, M.P. Dixit, S.K. Dixit, S.K. Chaubey, Swastika

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioners and learned counsel for the respondent.

2. The present writ petition has been filed by the petitioners for the following reliefs :-

"a. For issuance of writ in the nature of certiorari and order/orders, direction/directions to set aside the order dated 04.05.2017 passed in O.A. No. 610/2015 by a Division Bench of Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred as "Tribunal") whereby the learned Tribunal has directed the petitioners/respondent to declare the result of respondent/applicant effective from the original date of final result of 19.03.2014, within a period of one month from the date of receipt of a copy of the order. Further directed that the respondent/applicant shall be given seniority from the due date as per his position in the merit list and have also passed strictures against the petitioners and directed to pay a cost of Rs. 10,000/- to the respondent/applicant.

b. For any other appropriate order/orders of this Hon'ble Court may deem fit and proper."

3. Briefly stated the facts, according to the petitioners, are that the respondent applied for the post of Assistant Loco Pilot, Category No.1 under Centralised Employment Notice (CEN) 01/2011 published on 13.08.2011 by Railway Recruitment Board, Patna, Ministry of Railway, Government of India. After scrutiny, admit card was issued to the respondent for the written examination. The respondent appeared in the written examination on 15.07.2012 and subsequently in Aptitude Test, conducted on 26.07.2013. On being found provisionally eligible, the respondent was called for verification of original certificate as well as identity on 25.02.2014. Thereafter, at the time of verification of documents, the respondent produced certificate of Praveshika as equivalent to Matric and a certificate for Varishtha Upadhyaya Examination as equivalent to Intermediate, both were issued from Madhyamik Shiksha Board, Rajasthan. The petitioners sought a clarification from the Railway Board as to whether the said certificate was recognised by the Railway for appointment in the relevant year or not. The reply of the Railway Board was not received. However, the final result of the respondent was kept in abeyance awaiting the reply of the Railway Board. Being aggrieved, the respondent filed O.A. No.610 of 2015 before the learned CAT, Patna, which was allowed vide order dated 04.05.2017. Being aggrieved by the order of the learned CAT dated 04.05.2017, the petitioners filed the present Writ.

4. The learned counsel for the petitioners submitted that the learned CAT has committed grave error by passing the order dated 04.05.2017 whereby the RRB was directed to declare the result of the respondent, without confirming/verifying whether his qualification was equivalent to Matric. The learned counsel further submitted that all along, from appearing in the written examination, subsequently in aptitude test to the verification of the original certificates, the candidates remain only provisionally eligible and subject to fulfilling all the eligibility criteria in all respect. This fact is brought into the notice of all the candidates through call letter for aptitude test and also through intimation letter for verification of the original certificates. Merely appearing / qualifying at written examination does not give any right or entitlement to get selection or appointment in the examination concerned. The eligibility and validity of the candidates are thoroughly checked at the time of verification of certificates and before issuance of panel of selected candidates by the RRB, subject to qualifying the medical test conducted by the concerning Zone/Division. If any type of irregularity is detected in the original forms, admit cards, declaration /certificates of the candidate, their candidature is required to be cancelled / rejected, even after selection/ empanelment issued by the competent/ appointing authority. Apart from this even after appointment, their services could be terminated whenever the facts of the irregularities come to the notice of the competent authority.

5. The learned counsel for the petitioners further submitted that in this case also, reference has been made regarding recognition of certificate to the Railway Board. Hence, the result of the respondent has been kept in abeyance awaiting

the clarification/instruction of the Railway Board. The learned counsel further submitted that Railway Recruitment Board, Patna had approached Railway Board for clarification/advise on the issue that whether the candidate's qualification (Praveshika Examination & Varishtha Upadhyaya Examination) is admissible for the purpose of appointment in service under Government of India in the Ministry of Railways or not. As per Railway Board's clarification, Railway Recruitment Board, Patna approached to Council of Boards of School Education in India (COBSE) which also did not clarify the matter and instead referred the matter to Secretary, Board of Secondary Education, Rajasthan. Secretary, Board of Secondary Education, Rajasthan which took its own time to reply in the matter i.e. whether certificate of Praveshika Examination was equivalent to the certificate of Secondary School Examination issued from Board of Secondary Education Rajasthan in the year 2004 and admissible for appointment under Government of India. The learned counsel further submitted that the Railway Recruitment Board, Patna made so many efforts to obtain clarification on the basic essential qualification of the respondent, but it could not receive any information with regard to the certificate of Praveshika being equivalent to the matric and in these circumstances final decision could not be taken in absence of required clarification on the issue of recognition of the certificate submitted by the petitioner. The learned counsel further submitted that the learned CAT relied on the circulars/instructions issued by the Railway Board dated 15.07.2014 under RBE No.75/2014 and dated 26.03.2015 under RBE No.29/2015 for checking the equivalence of the degree of the respondent with reference to COBSE, but the aforesaid circulars/instructions were withdrawn by the Railway Board vide RBE No.114/2017 dated 31.08.2017 since it has been found that Council of Boards of School Education in India (COBSE) is a private organization and its membership is voluntary and COBSE has not been established by the Ministry of Human Resource Development. Moreover, the membership of COBSE does not automatically grant the status of recognized Board upon any member Board. By the said circular, the Railway Board has instructed that for genuineness of various School Boards, State Governments concerned may be approached on whose authority the School Boards claim their genuineness. The learned counsel further submitted that the RRB moved in this matter by way of abundant caution and firstly inquired from the Railway Board and thereafter from COBSE and COBSE referred the matter to the Government of Rajasthan and vide letter dated 27.02.2020 issued by the Assistant Director, Sanskrit Siksha Rajasthan, Jaipur, it has been confirmed by the Rajasthan Board that Praveshika Pariksha (with English) is equivalent to Secondary School Examination which is valid for Govt. job. After receiving the confirmation from the Rajasthan Board, the final result of the respondent has been published on 31.08.2020 by the petitioners. The respondent has been offered appointment and he has joined the service. In the facts and circumstances, the learned counsel prayed that the cost of Rs.10,000/- imposed by the learned Tribunal, Patna Bench may be waived off and this writ petition may be disposed of.

6. The learned counsel for the sole respondent while justifying the order of learned CAT submitted that despite the availability of all the information on the site of COBSE, the railway authorities have been making futile correspondence causing unnecessary delay in finalizing the appointment of the respondent adversely affecting his career. The learned counsel further submitted that in RBE No.29/2015 dated 26.03.2015, the Railway Board has already circulated the decision that the certificate/qualification obtained from the institution figuring in the list of associate members on official website of COBSE may also be treated at par with those borne on list of Member Board and certificates/ qualification obtained from all such institutions will be acceptable for the purpose of employment on the railways from the date on which the said institution has been accorded membership by COBSE. The learned counsel further submitted that in pursuance of the aforesaid decision of the Railway Board, the RRB, Patna ought to have verified themselves, from the official website of the COBSE, about the certificate of the respondent, but instead of complying with the decision of Railway Board, they have made unnecessary correspondence causing inordinate delay in finalizing the result of the respondent. The learned counsel also submitted that the learned CAT after considering all facts and circumstances has allowed the O.A. No.610 of 2015 vide order dated 04.05.2017. However, the respondent did not controvert the contention raised in the supplementary affidavit filed by the petitioners on 15.08.2021 whereby later development have been brought on record.

7. Having considered the material available on record and further considering the submissions of the parties, it appears that the final result of the respondent has been published on 31.08.2020 and the respondent has been provisionally selected for the post of Assistant I Pilot, Category No.01 and his name has been recommended to the office of Principal Chief Personnel Officer/East Central Railway/Hajipur. Now, in the facts and circumstances of the case, the petitioners prayed that a cost of Rs.10,000/- imposed by the learned CAT, Patna Bench may be waived off and this writ petition may be disposed of.

8. From the records, it appears that a supplementary affidavit dated 15.08.2021 has been filed on behalf of the petitioners wherein in paragraph nos. 6 to 9 it has been stated as under :-

"6. That it is humbly submitted that the Railway Recruitment Board, Patna vide its Letter No. RRB/PAT/Conf./01/2011/Tech. Policy dated 20.08.2018, 10.10.2018, 17.06.2019, 10.10.2019 approached to Secretary/School Education and Bhasha, Government of Rajasthan for clarification that whether certificate issued to the respondent/applicant by the Board of Secondary Education Rajasthan under Praveshika Examination - 2004 is equivalent to Matriculation or not. It is pertinent to mention here that recognition of the of institution/Board (Board of Secondary Education, Rajasthan) is not being questioned. What remains to be ascertained by RRB/Patna is whether certificate of Praveshika Examination is/was equivalent to the certificate of Secondary School Examination

issued from Board of Secondary Education Rajasthan in the year 2004 and admissible for appointment under Govt. of India.

7. That vide letter No. निशंशी/ शैक्ष -2/P.94/ समकक्षता/ 8701, दिनांक 27.02.2020 issued by Astt. Director, Sanskrit Siksha Rajasthan, Jaipur, it has been confirmed by the Rajasthan Board, that Preveshika Pariksha (With English) to equivalent to Secondary School Examination which is valid for Govt. Job.

8. That after receiving the confirmation from the Rajasthan Board, the final result of the respondent/applicant has been published on 31.08.2020 by the petitioner.

9. That in the facts and circumstances stated above, it is humbly prayed that a cost of Rs. 10,000/- imposed by the learned Tribunal, Patna Bench may please be waived off and this writ petition may please be disposed of in the light of above."

9. Since the fact came to be established that the degree of Praveshika held by the respondent is equivalent to Secondary Degree of any recognized Board and the same has been taken into consideration and the respondent was offered appointment, the order of RRB cannot be faulted if it directed for appointment of the respondent. But so far as recording strong stricture against the RRB and imposing a cost of Rs.10,000/- are concerned, we are unable to agree with this direction of the learned CAT. If there was even an iota of doubt, the RRB was well within its right to ascertain about the genuineness and equivalence of the certificate of the respondent since there appears some ambiguity on this point. Submission of the petitioners as already discussed in para 5 on this point deserves consideration and is quite relevant for this purpose. The conduct of the RRB in moving cautiously in the matter cannot be faulted and it is also a fact as soon as it came to the knowledge of the RRB that the certificate of the respondent was equivalent to Secondary School certificate, it published the final result of the respondent and consequent thereof the respondent was appointed.

10. In the light of discussions made here-in-above, we are not inclined to interfere with the impugned order dated 04.05.2017 passed by learned CAT in O.A. No.610 of 2015.

11. However, having regard to the facts and circumstances of the case, we deem it proper to expunge the stricture and waive the cost of Rs.10,000/- as imposed by the learned CAT on the petitioners in its impugned order.

12. Accordingly, this writ petition stands disposed of.