

## Naresh Kumar Choudhary Vs Union Of India & Ors.

**Court:** Central Administrative Tribunal Principal Bench, New Delhi

**Date of Decision:** Jan. 14, 2025

**Acts Referred:** Administrative Tribunals Act, 1985 " Section 19

**Hon'ble Judges:** Harvinder Kaur Oberoi, Member (J); Dr. Sumeet Jerath, Member (A)

**Bench:** Division Bench

**Advocate:** Ajesh Luthra, Deepak Bhardwaj

**Final Decision:** Disposed Of

### Judgement

Dr. Sumeet Jerath, Member (A)

1. The instant OA has been filed by the applicant Mr. Naresh Kumar Choudhary under section 19 of the Administrative Tribunals Act, 1985 seeking

the following reliefs:-

1. Call for the records of the case and

(b) quash and set aside the impugned decision of the respondents and

(c) declare that the applicant has been wrongly excluded from the selection process and consequently denied appointment to post in Pay-

Band-I of Rs. 5200-20200 with Grade Pay Rs. 1800/-pursuant to employment notice No. 220- E/Open Mkt./RRC/2013.

(d) direct the respondents to further consider and appoint the applicant to the said post with all consequential benefits.

(e) if need arises for grant of prayers above, the respondents be directed to get the case of the applicant freshly examined from independent

experts.

(f) award costs of the proceedings and

(g) pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents

in the facts and circumstances of the case.

2. The conspectus of the case as per the learned counsel of the applicant is that in response to employment notification issued by Railway Recruitment

Cell, Northern Railway in the year 2013 to fill up various post in Pay Band-I of Rs. 5200-20200 with Grade Pay Rs. 1800/-, the applicant (OBC

candidate) being fully eligible duly applied for the same and was issued admit card with his roll number being 20184183. The written examination was

conducted on 23.11.2014 wherein he participated. Thereafter, he was subjected to Physical Endurance Test in April 2015. The applicant, upon having

cleared the stages of examination/tests was declared selected and called for documents verification scheduled for July 2015 to which he complied.

However, in the month of December 2015, the respondents have rejected the applicant's appointment on the ground - 'Case rejected - Mismatch in

handwriting/signature on relevant papers i.e. Application forms, OMR sheet, DV papers', as uploaded on their website.

3. The learned counsel of the applicant argued on the following grounds :-

4.6 It is submitted that the aforesaid impugned decision of the respondents is highly illegal, unjust, unfair, unilateral, arbitrary and

against principles of natural justice. The applicant has himself appeared and took the examinations. There is no question of impersonation.

The admit cards carried photographs of the candidates which were tallied during the written examination. The thumb impressions were also

taken at that time also as taken earlier on the application form before its submission. His specimen handwriting/signatures were taken at the

time of verification of documents for matching with the handwriting/signatures in the OMR answer sheet. The examination has been

videographed. No specific reason for rejection has been spelled out nor he has been put to notice or called upon to show cause before

taking the impugned decision. The respondents cannot be permitted to keep unto themselves such powers enabling them to take unilateral

decisions arbitrarily. The selection process conducted in this manner cannot be treated as fair in the welfare state. The selection is not

transparent and candidates cannot be left to the wishes, whims and fancies of the respondents in such matters. Moreover, such unbridled

power to the respondents without any checks and balances breeds nepotism and corruption.

4.7 It is submitted that the respondents had made all arrangements to check cheating, copying or impersonation. The entire examination has

been videographed. Had there been any impersonation, the invigilators would have checked it on the spot. The videography can be

checked to ascertain the truthfulness of applicant's statement that he himself had taken the examination.

4.8 It is submitted that the field of forensic science i.e. matching of handwriting and/or signatures in writing is very vast and requires

special skills and special instruments and it is only on the basis of the examination done by a skilled person through special instruments is

admissible under law. Moreover, the opinion on handwriting or signatures can be only utilised as an aid to sustain the allegation of

impersonation, which however is not the case. The applicant can be subjected to a forensic handwriting expert for matching of his

handwriting in the OMR answer sheet, even today and for the purpose, his specimen handwriting can be taken either by this Hon'ble

Tribunal or under the orders of the Hon'ble Tribunal by any govt. FSL or Court nominated handwriting expert.

4.9 Neither the statements of marks has been ever published nor final results of selection have been declared publically. No answer key was

also published. Finally many candidates have been excluded on vague grounds of mismatch in handwriting. The selection is not at all fair

and transparent.

C. The respondents are not transparent at all while making appointments to the public posts.

D. The respondents have not divulged the necessary details. Even the result of written examination has not been made public and the

category-wise result has not been declared.

E. The unnecessary and unwarranted secrecy being maintained by the respondents smacks of malafides and ulterior motives.

F. The applicant has himself taken the examination. No material has been brought to the notice of the applicant which fell for respondents

consideration to take an adverse view against the applicant. It is not known or disclosed to the applicant as to on what material and on

what basis. the respondents concluded it to be a case of mismatch of handwriting/signatures, or either handwriting or signatures or both.

No adverse material has been brought to applicant's notice and no opportunity to show cause or tender explanation has been provided. The

applicant has been condemned without hearing.Ã¢â€

4. The learned counsel of the respondents opposed the OA on the following grounds :-

(1) In pursuance of Employment Notification No. 220E/Open Mkt/RRC/2013 Dated: 30/12/2013, a recruitment process to fill up 5679 vacancies in

Pay Band-I Rs. 5200- 20200 GP 1800/-Group ""D' Post was initiated. In the said notification detailed information for the candidates was given.

Notification clearly stipulated that Candidate should fill up the application form in his / her own hand writing in Para 5 with detail information on how to

apply, general conditions and invalid applications etc. with specific information that mere selection and empanelment does not confer any right of

appointment to the candidate. It was also stipulated in the notification that admission of the candidate at all stage of recruitment will be purely

provisionally subject to satisfying the prescribed conditions. The applicant applied for the said examination and participated in various stages of

selection process and was called for Document verification/Medical Examination after Written Examination (WE) & Physical Efficiency Test(PET)

with clear stipulation that calling of Candidates for Document verification/Medical Examination does not automatically confer any right upon candidate

for his appointment on any post of Northern Railway. During processing/examination of his case it was decided by Chairman/RRC to sent the case of

the applicant to Ex. Government Examiner For Questionable Documents (Ex. GEQD) duly nominated by Ministry of Railway for detailed examination

with reference to matching of handwriting & signatures on relevant papers i.e. Application Form, OMR Sheet, DV papers & Medical memo

containing samples of handwriting & signatures taken at various stages i.e. on application form at the time of submitting application to RRC, on OMR

sheet during written examination followed a sample taken by DV Committee during document verification & during Medical Examination. On receipt

of expert report confirming mismatch of his hand writing/signatures on relevant papers, the case of the applicant was rejected by the competent

authority and status uploaded in the form of order on RRC website for the information of candidate which is the main source of communication with

the candidates as already notified in notification.

On receipt of expert report regarding mismatch of the handwriting of the candidate, the rejected status was uploaded on the Web site of RRC/NR.

There is no illegality in it as a conscious decision has been taken by the competent authority to reject his case on receipt of expert report which

certified that on cross verification of original OMR, application and document verification data, handwriting & signatures do not match with each

other.

Mere appearance in the selection process does not give any right to the candidate for appointment without fulfilling the examination conditions and it is

for the recruitment agency to decide the process of appointment not by the candidate's appearing in the said selection. There is uniformity in action of

the administration. Case of the candidate has only been rejected after it is confirmed by expert that there is mismatch in the handwriting/signatures

which is violation of the examination conditions and accordingly case was rejected by competent authority. It is further submitted that the report on

which administration has relied belongs to a expert person in the field included in the panel for the purpose by Ministry of Railway. Railway

administration has only relied upon the sample handwriting available/taken during the process of selection and any such request before this Tribunal to

take a new sample of handwriting is extraneous to the record and not acceptable

It is further submitted that mere calling of Candidate for Document verification does not automatically confer any right upon candidate for his

appointment on any post of Northern Railway. After considering the case on receipt of expert report, a conscious decision has been taken by the

competent authority to reject his case as expert report certified that on cross verification of original OMR, application and document verification data,

handwriting / signature do not match with each other. The applicant's plea cannot be accepted as administration has acted as per the rules and any

deviation from the same for specific individual would be not justified and is against the uniform policy adopted by administration.

5. Heard the learned counsel of both sides ; examined the documents on record and perused the relevant judgments and decisions of Coordinate

Bench of the Tribunal; Hon'ble High Court and Hon'ble Apex Court.

6. We have taken note that in WP (C) No. 6256/2019 & CM Appl No. 26790/2019 -Sombir vs. Staff Selection Commission and another, the

Hon'ble High Court of Delhi has allowed the petition vide its order dated 12.10.2022. We have also taken note that in the decision of our

Coordinate Bench in OA No. 3628/2013 Dev Dutt vs. Union of India (through General Manager Northern Railways) in its decision dated

09.11.2021 had mentioned vide para 6 of its judgment as follows :-

"6. It is submitted by learned counsel for applicant that in the case of Sombir (supra) this Tribunal relying on the opinion of expert body,

i.e. CFSL dismissed the OA on the ground of mismatch between his signature on different documents. However, the Hon'ble High Court

stayed the order of the Tribunal vide its order dated 29.05.2019 and observed that CFSL's opinion was cryptic in nature and should not

have formed basis of rejection of the OA by the Tribunal. It is further submitted that in another case titled Parveen vs. Union of India and

ors., WP (C) No.2975/2021 the Hon'ble High Court of Delhi vide order dated 05.03.2021 took a prima facie view that merely on the basis

of report of CFSL, the harsh action of revocation of appointment could not have been taken. Therein, the Hon'ble Tribunal vide order dated

29.01.2021 had dismissed the OA seeking reinstatement in service on the ground that CFSL found discrepancies in applicant's

signatures.

7. Now that the Hon'ble High Court of Delhi has given its clear judgment on 12.10.2022 and the matter is no longer sub judice, it would be

judicious and prudent to abide by the decision of Coordinate Bench of CAT in Dev Dutt vs. Union of India (General Manager Northern Railway)

on 09.11.2021. This decision inter alia vide paras 10, 11 and 12 of the judgment states that :-

"10. The grievance raised before this Tribunal is that the applicant is not satisfied with the decision taken by the respondents in

pursuance of the opinion of the so called expert. Accordingly, we are of the considered view that it would meet the ends of justice if the

documents annexures R-1 to R-3 be sent to the CFSL for examination by the Railway authority within a period of 15 days from the date of

receipt of a copy of this order. Ordered accordingly. On receipt of the request of the Railway authority, the CFSL shall give their report in

this regard within a period of six weeks thereafter to the Railway authority, on the basis of which the Railway authority shall take a final

decision as regards the employment of the applicant in Group-D post.

11. With the above observation, the OA stands disposed of.

12. Accordingly, MA No.3018/2021 also stands disposed of. There shall be no order as to costs.Ã¢â€

Accordingly, we are of the considered opinion that in the instant OA the ends of justice would be met if the impugned rejection order of December,

2015 is quashed and set aside and the respondents are directed to send the OMR Sheet of the applicant, the application form submitted by the

applicant at the initial stage and the signature of the applicant to the CFSL for examination within a period of 15 days from the date of receipt of

certified copy of this order. On receipt of the request of the Railway Authority, CFSL shall give their report in this regard. On the basis of the report

of the CFSL, the respondents shall take a final decision as regards the employment of the applicant for the post in question.

8. With the above observations, the instant OA stands disposed of. There shall be no order as to costs.