

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. E (NG)-II/2013/RR-1/9.

New Delhi, dt. 01/11/2015.


The General Manager (P),
All Zonal Railways/Production Units
Chairmen/RRBs

Sub: Order dated 08/10/2014 delivered by Hon'ble Supreme Court in CA No. 9388/2014 {arising out of SLP(C) No. 706/2014} – Union of India & others Vs Shri Sarwan Ram & others.

A copy of order dated 08/10/2014 cited in the captioned subject delivered by Hon'ble Supreme Court of India quashing order dated 28/5/2013 of Hon'ble High Court of Rajasthan in D.B. Civil Writ Petition No. 13032 of 2011 pertaining to recruitment from open market of Ex-servicemen candidates is sent here with for information and record.

Please acknowledge receipt.

Encls.: As stated.


(Neeraj Kumar)
Director Estt.(N)II
Railway Board

ITEM NO.51

COURT NO.4

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 706/2014

(Arising out of impugned final judgment and order dated 28/05/2013
in WP No. 13032/2011 passed by the High Court Of Rajasthan At
Jaipur)

U.O.I & ANR

Petitioner(s)

VERSUS

SARWAN RAM & ANR.

Respondent(s)

Date : 08/10/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE PRAFULLA CHANDRA PANT

For Petitioner(s)

Mr. Atul Chitley, Sr. Adv.
Mr. A.K. Kaul, Adv.
Ms. Vimla Sinha, Adv.
Mr. Shreekant N. Terdal, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of signed order.

(Neeta)
Sr. P.A.

(Suman Jain)
COURT MASTER

(Signed order is placed on the file)

Signature Not Verified

Digitally signed by
Neeta Saini
Date: 2014.10.15
17:14:07 IST
Reason:

CWL
PT letter to
letter to the Chairman
RCG and interim
Judgment
NT
29/10

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9388 OF 2014
(Arising out of SLP(C) No. 706 of 2014)

U.O.I & ANR

Petitioner(s)

VERSUS

SARWAN RAM & ANR.

Respondent(s)

O R D E R

Leave granted.

This appeal has been preferred by appellants - Union of India & Anr. against the judgment dated 28th May, 2013 passed by High Court of Judicature for Rajasthan, Jaipur Bench at Jaipur in D.B. Civil Writ Petition No. 13032 of 2011.

By the impugned judgment, the High Court allowed the writ petition preferred by respondent no. 1 - Sarwan Ram and directed the appellants to consider the case of respondent no. 1 for appointment and, if otherwise eligible, to grant him appointment within two months.

The factual matrix of the case is as follows:

The appellants issued notification dated 19th November, 2010 to fill up 800 posts of Group D (Ex-serviceman quota). Condition No. 8.7 (i) of the said employment notice mandated the applicants to paste photograph in military uniform. Pursuant to the said notification Respondent no. 1 herein applied for the posts but failed to comply with the mandate i.e. condition to paste photograph in military uniform along with application form. The

application being defective was rejected after he participated in selection process when the defect was noticed. Being aggrieved respondent no. 1 preferred Original Application No. 84 of 2011 before the Central Administrative Tribunal, Jaipur. The Tribunal dismissed Original Application by its judgment dated 1st April, 2011. The said decision was challenged before the High Court by respondent no. 1 and the High Court allowed the writ petition by the impugned judgment.

By the impugned order, the High Court though noticed the aforesaid fact that under condition no. 8.7(i) of the employment notice, candidate was to paste photograph in military uniform, allowed the writ petition on the ground that respondent no. 1 has produced on record the discharge certificate issued by the Record Officer (Records), the Jat Regiment, which proves that he served for total 24 years and 24 days with the Indian Army.

Learned counsel appearing for the appellants contends that as per the Defence Service Regulation, officers holding honorary commissions and released officers who held other types of commissions may on special occasion wear the military uniform. But released/discharged JCOs, WOs or NCs(E) may be allowed to wear uniform on specifications only under orders issued by Army Headquarters from time to time and that all regular officers who have retired from the service and officers who have been permitted to retain their rank on retirement from RRO Commissioner may wear uniform on special occasions like attending ceremonies and

entertainments of military nature and on other occasions when the wearing of uniform would appear appropriate. It came to the notice of the authorities that bogus persons by enclosing fake certificates started getting recruited. In that view of the matter for eliminating the possibility of any bogus person getting such recruitment, condition no. 8.7(i) was introduced to paste photograph in military uniform on the application form apart from condition no. 8.7(iii) that *inter alia* requires all the applicants to submit attested copies of certificates from the appropriate authority giving their length of regular service and Army Class I certificate.

In spite of service of notice, respondents have neither appeared nor disputed the stand taken on behalf of appellants.

We have perused the record and noticed the submission made on behalf of the appellants and also the reasoning given by the High Court while allowing the writ petition.

Condition No. 8.7(i) is one of the conditions mandate mentioned in the employment notice. We are of the view that in non-compliance of such condition, it was always open to the competent authority to reject such application being incomplete. Respondent no. 1 having failed to do so, the competent authority has rightly rejected the application. In such circumstances, it was not open to the High Court to direct the authorities to consider the case of respondent no. 1 for appointment, sitting in appeal over the scrutiny of application by referring to certain certificate of length of service. High Court under Article 226 of

the Constitution of India is not competent to scrutinize the applications filed for appointment and cannot substitute its own opinion based on some evidence to come to a conclusion whether the application form is defective.

In view of the reasons recorded above, we have no other option but to set aside the impugned judgment dated 28th May, 2013 passed by High Court of Judicature for Rajasthan, Jaipur Bench at Jaipur in D.B. Civil Writ Petition No. 13032 of 2011.

The appeal is allowed no cost.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(PRAFULLA CHANDRA PANT)

NEW DELHI;
OCTOBER 08, 2014