

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCHT AT JAIPUR

ORDER

(1) D.B. CIVIL WRIT PETITION NO.11835/ 2015
UNION OF INDIA Vs. DEEPAK SAINI

(2) D.B. CIVIL WRIT PETITION NO.12019/ 2015
UNION OF INDIA & ANR. Vs. SANJAY KUMAR GUPTA

(3) D.B. CIVIL WRIT PETITION NO.12185/ 2015
UNION OF INDIA & ANR. Vs. VINOD KUMAR DHAYAL

(4) D.B. CIVIL WRIT PETITION NO.12186/ 2015
UNION OF INDIA & ANR. Vs. AJAY SINGH RAWAT

(5) D.B. CIVIL WRIT PETITION NO.12187/ 2015
UNION OF INDIA & ANR. Vs. ANKIT KUMAR TAYLOR

(6) D.B. CIVIL WRIT PETITION NO.12188/ 2015
UNION OF INDIA & ANR. Vs. RAHUL KUMAWAT

(7) D.B. CIVIL WRIT PETITION NO.12189/ 2015
UNION OF INDIA & ANR. Vs. SUMIT KUMAR SHARMA

(8) D.B. CIVIL WRIT PETITION NO.12190/ 2015
UNION OF INDIA & ANR. Vs. UMESH KUMAR

(9) D.B. CIVIL WRIT PETITION NO.12191/ 2015
UNION OF INDIA & ANR. Vs. VINOD KUMAR JANGIR

(10) D.B. CIVIL WRIT PETITION NO.12192/ 2015
UNION OF INDIA & ANR. Vs. RAM KISHAN

(11) D.B. CIVIL WRIT PETITION NO.12193/ 2015
UNION OF INDIA & ANR. Vs. SUDHIR SINGH

(12) D.B. CIVIL WRIT PETITION NO.12199/ 2015
UNION OF INDIA & ANR. Vs. PRIYADARSHI KUMAR

(13) D.B. CIVIL WRIT PETITION NO.12201/ 2015
UNION OF INDIA & ANR. Vs. AMARNATH SHARMA

(14) D.B. CIVIL WRIT PETITION NO.12202/ 2015
UNION OF INDIA & ANR. Vs. ARUN KUMAR ARYA

(15) D.B. CIVIL WRIT PETITION NO.12203/ 2015
UNION OF INDIA & ANR. Vs. TUSHAR GODHA

(16) D.B. CIVIL WRIT PETITION NO.12204/ 2015
RAILWAY RECRUITMENT BOARD, AJMER Vs. TEENA RAIGER

(17) D.B. CIVIL WRIT PETITION NO.12205/ 2015
UNION OF INDIA & ANR. Vs. VIVEK KUMAR

(18) D.B. CIVIL WRIT PETITION NO.12206/ 2015
UNION OF INDIA & ANR. Vs. JITENDRA KUMAR PRAJAPAT

(19) D.B. CIVIL WRIT PETITION NO.12207/ 2015
UNION OF INDIA & ANR. Vs. AMAN SHARMA

(20) D.B. CIVIL WRIT PETITION NO.12208/ 2015
UNION OF INDIA & ANR. Vs. AKANSH VAISHNAV

(21) D.B. CIVIL WRIT PETITION NO.12209/ 2015
UNION OF INDIA & ANR. Vs. PRADEEP DHAKAR

(22) D.B. CIVIL WRIT PETITION NO.12210/ 2015
UNION OF INDIA & ANR. Vs. NARENDRA KUMAR

(23) D.B. CIVIL WRIT PETITION NO.12211/ 2015
UNION OF INDIA & ANR. Vs. VIRENDRA TINKER

(24) D.B. CIVIL WRIT PETITION NO.12212/ 2015
UNION OF INDIA & ANR. Vs. SATISH KUMAR

(25) D.B. CIVIL WRIT PETITION NO.12213/ 2015
UNION OF INDIA & ANR. Vs. YASH MISHRA

(26) D.B. CIVIL WRIT PETITION NO.12214/ 2015
UNION OF INDIA & ANR. Vs. VIKRAM SINGH & ORS

(27) D.B. CIVIL WRIT PETITION NO.12215/ 2015
UNION OF INDIA & ANR. Vs. NITESH MISHRA

(28) D.B. CIVIL WRIT PETITION NO.12216/ 2015
UNION OF INDIA & ANR. Vs. SUNIL KUMAR MEENA

(29) D.B. CIVIL WRIT PETITION NO.12217/ 2015
UNION OF INDIA & ANR. Vs. ARUN KUMAR YADAV

(30) D.B. CIVIL WRIT PETITION NO.12218/ 2015
UNION OF INDIA & ANR. Vs. KAILASH CHAND KOLI

(31) D.B. CIVIL WRIT PETITION NO.12219/ 2015
UNION OF INDIA & ANR. Vs. ANAND BATAR

(32) D.B. CIVIL WRIT PETITION NO.12220/ 2015
UNION OF INDIA & ANR. Vs. OM PRAKASH CHAUDHARY

(33) D.B. CIVIL WRIT PETITION NO.12221/ 2015
UNION OF INDIA & ANR. Vs. SATISH CHAND MEENA

(34) D.B. CIVIL WRIT PETITION NO.12222/ 2015
UNION OF INDIA & ANR. Vs. VIJAY KUMAR PAL

(35) D.B. CIVIL WRIT PETITION NO.12223/ 2015
UNION OF INDIA & ANR. Vs. RAJ KUMAR

(36) D.B. CIVIL WRIT PETITION NO.12224/ 2015
UNION OF INDIA & ANR. Vs. VIJENDRA SINGH RAWAT

(37) D.B. CIVIL WRIT PETITION NO.12225/ 2015
UNION OF INDIA & ANR. Vs. PRADEEP SINGH SHEKHAWAT

(38) D.B. CIVIL WRIT PETITION NO.12226/ 2015
UNION OF INDIA & ANR. Vs. VIJAY SINGH MEENA

(39) D.B. CIVIL WRIT PETITION NO.12227/ 2015
UNION OF INDIA & ANR. Vs. GYANENDRA SINGH
&

(40) D.B. CIVIL WRIT PETITION NO.12229/ 2015
UNION OF INDIA & ANR. Vs. PAWAN GARG

DATE:31.08.2015

HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE PRAKASH GUPTA

Mr. Shailesh Prakash Sharma, for the petitioner.

Mr. Ashish Saksena,

Mr. Rajesh Kapoor,

Mr. Sunil Samdaria,

Mr. Anurgag Shukla,

Mr. M.S. Raghav, for the respondents.

The applications are allowed. The defects are over-ruled.

Instant bunch of petitions has been filed assailing the order granting interim protection to the applicants by the Central Administrative Tribunal, Jaipur Bench, Jaipur, vide order dated

03.08.2015.

Brief facts of the case which may be relevant for consideration are that 638 vacancies of Assistant Loco Pilot came to be advertised/ notified vide Centralized Employment Notice No.1/ 2014, dated 18.01.2014, issued by the Railway Recruitment Board inviting applications from the eligible candidates, obviously who fulfill the requisite qualifications for participating in the selection process. Pursuant thereto, the present respondents, who are applicants before the Tribunal, submitted their applications and were permitted to participate in the selection process.

The applicants, as informed to the Court, after participating in the selection process, qualified in the written examination and in the aptitude test and their names find place in the select list prepared by the Railway Establishment, but finally when they were not empaneled to be considered for appointment, each of them rushed to the Tribunal by filing Original Applications and their grievance was that they hold the minimum academic qualification and once permitted to participate in the selection process, withholding their names from being empaneled for appointment is arbitrary action of the respondent-Railway Establishment being violative of Art.14 of the Constitution of India.

After the notices were served, the Railway Establishment appeared and filed their reply to the application seeking interim protection. However, detailed reply to the Original Applications is yet to be filed. The matter was heard for grant of interim protection and Id.

Tribunal under its order impugned dated 03.08.2015, observed that let 45 vacancies be kept reserved for the applicants to protect their rights, while keeping the question open to be examined in the Original Application filed by the respondents-applicants, at the same time directed the Railway Establishment to permit them to undergo medical examination and 17 weeks of training, which is customised for appointment to the post of Assistant Loco Pilot and the matter has been posted for final hearing on merits on 07.10.2015 under its order impugned.

Counsel for the petitioners while assailing the interim order passed by the Tribunal in the Original Applications, submits that the relief which was not even prayed for by the applicants in the O.A. has been granted by the Tribunal at the interim stage. Each of the applicants prayed for inclusion of their names in the provisional panel prepared by the authority for being considered for appointment to the post of Assistant Loco Pilot, and if finally succeeds the stage thereafter comes for medical examination and training of 17 weeks to the applicants, who have still not empanelled for appointment. Unless first stage of their dispute is taken care of, the order passed by the Tribunal pending adjudication of the dispute in respect to the qualification and their eligibility for the post of Assistant Loco Pilot, is yet to be examined, further direction for their medical examination and 17 weeks training, according to him, is not legally sustainable and is beyond what has been prayed for by the applicants.

We took note of his submission in our order dated 27.08.2015, and called upon the respondents, who are applicants before the Tribunal. All the counsels appearing for the applicants before the Tribunal, jointly submitted that the medical examination and training is a integral part of selection and only thereafter one will get appointment and Id. Tribunal has taken care of in examining the matter *prima-facie* on merits while passing the present order impugned before us, and the petitioners who are contesting the matter before the Tribunal, have not been able to justify the ineligibility of the applicants to hold the post of Assistant Loco Pilot and once their names find place in the order of merit, no error has been committed by the Tribunal in passing the order impugned for their medical examination and 17 weeks of training. The order impugned therefore does not call for any interference, more so when the matter is fixed for hearing in first week of October, 2015.

We have heard counsel appearing for the respective parties and with their assistance perused the material on record.

It is not disputed that the question in respect of eligibility of the respondents/ applicants before the Tribunal, is yet to be examined on merits, and the matter has been posted on 07.10.2015, to be heard finally. As we have already noticed in our order dated 27.08.2015 that the Railway Establishment has agreed to keep the number of vacancies qua the applicants before the Tribunal vacant to safeguard their interests if they finally succeed and taking note thereof, an affidavit/ application has been filed by the petitioners to justify the expenses which are to be

incurred by the Railway Establishment in imparting 17 weeks of training over an individual applicant, which is customize training to hold the post of Assistance Loco Pilot. It has been stated in the application by the petitioners that for imparting 17 weeks training, every applicant is entitled to stipend of Rs.16484/- per month and the total expenses which are to be incurred by the Railway Establishment are Rs.31,52,565/-, and on training Rs.4255/- per day per candidate is additionally to be incurred for 199 days, which comes to Rs.2,27,85,525/- The document dated 21.05.2015, in support thereof has been placed on record indicating the expenses to be incurred at the stage when the eligibility of the applicants to hold the post of Assistant Loco Pilot is yet to be examined by the Tribunal on merits.

After taking note of the submissions made, we do not find any justification in passing of the further order for medical examination and imparting 17 weeks training to each of the applicants pending adjudication of the dispute, to be examined on merits regarding their eligibility/ academic qualification to hold the post, for which they have participated in the selection process.

Counsels for the respondents jointly submit that at least the petitioners may file reply before the Tribunal, and if possible and this Court considers it appropriate, at least the matter may be heard finally on the next date fixed by the Tribunal.

We do find justification that when the matter is to be considered on merits and eligibility of the applicants is yet to be

examined by the Tribunal and the vacancies qua the applicants have been kept vacant by the Railway Establishment, there appears no justification in passing further order directing the petitioners for medical examination and 17 weeks training to each of the applicants under the order impugned dated 03.08.2015.

Consequently, all the writ petitions succeed and are hereby allowed. The impugned order of the Tribunal dated 03.08.2015 to the extent directing the petitioner (Railway Establishment) for medical examination and 17 weeks training to the applicants, is hereby quashed and set aside. The petitioners may file their reply to the Original Application by the end of this month and rejoinder may also be filed by the applicants, if so advised. We hope and trust that the Original Applications be finally heard on merits on the next date already fixed by the Tribunal i.e. 07.10.2015 under its order impugned, or at the earliest possible without delay.

We further make it clear that what has been observed by us in the order is only for the purpose of disposal of the present petitions and the Tribunal may not be influenced/inhibited by the observations made in passing the order on merits in the pending Original Applications.

Let a copy of the order be placed in each connected file.

(PRAKASH GUPTA),J.

(AJAY RASTOGI),J.

/ KKG/

Certificate:

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

KAMLESH KUMAR
P.A.

RAJASTHAN HIGH COURT



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