

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 275/1995

New Delhi this the 31st day of August, 1995.

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

HON'BLE SHRI SYED KHALID IDRIS NAQVI, MEMBER (J)

Vidya Bhushan Sharma S/O D. C. Sharma,
Sr. Cashier Grade-I, Northern Railway,
Delhi Main Railway Station,
R/O K.M.142, Kavi Nagar,
Ghaziabad (UP).

Applicant

(By Shri P. M. Ahlawat, Advocate)

-Versus-

1. Union of India through
Chairman, Railway Board &
Ex-Officio Principal Secretary,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. General Manager, Northern Railway,
Baroda House, New Delhi.
3. A. K. Sareen, Sr. Cashier,
R/O 14/12 Railway Colony,
Kishanganj, Delhi-7.
4. J. R. Sharma, Sr. Cashier,
R/O 1/9595, Pratap Pura,
West Rohtas Nagar,
Gali No.2/T, Shahdara,
Delhi.
5. J. P. Sharma, Sr. Cashier,
R/O 321, Chaman Gali,
Goshala Road, Ghaziabad.
6. Y. K. Sharma, Sr. Cashier,
R/O E-111/86, Nehru Nagar,
Ghaziabad.

Respondents

(None for Official Respondents. Respondents 3-6
By Shri M. L. Sharma, Advocate)

O R D E R

Shri Syed Khalid Idris Naqvi, JM :

By means of this application under Section 19 of
the Administrative Tribunals Act, 1985, applicant has
sought for a direction to quash the proceedings of the

provisional selection for the post of inspectors of Cashier Grade and to further direct the General Manager, Northern Railway (respondent No.2) to hold a fresh provisional selection of I.O.C. on the basis of viva voce test only, considering the eligible staff as per Railway Board's instructions and prepare the panel of yearwise vacancies.

2. The applicant has contended that he was initially appointed as Shroff Grade Rs.110-180 (AS) under Chief Cashier in Cash and Pay Department of the Northern Railway w.e.f. 12.12.1959. Thereafter he was promoted in November, 1962 to the grade of Rs.330-560 and ultimately Senior Cashier Grade Rs.425-600/1400-2300 in April, 1964, and at present he is working as Senior Cashier Grade I in the scale of Rs.1600-2660 (RPS) w.e.f. 1.3.1993. He has further mentioned that the Railway Board vide letter dated 22.3.1994 decided that the Senior Cashier Grade I in the scale of Rs.1600-2660, which came in existence w.e.f. 1.3.1993 as a result of upgradation will be considered for promotion as I.O.C/ADC (Rs.1600-2660) on the basis of selection. The applicant has further mentioned that according to para 216-A(II)9b) of the Indian Railway Establishment Manual (IREM) Volume-I, "In regard to selection posts, it is essential that all the selections should be conducted regularly as per extant instructions", but no selection of I.O.C/ADC was held after 1991 and the vacancies of various years were clubbed in the present selection, thus violating the extant instructions of the Railway Board and the law declared by the Hon'ble Supreme Court. He has

also contended that it enlarged the zone of consideration and the candidates of lower grade are made eligible to appear in the examination. The applicant has further assailed the mode of examination mainly on two points: firstly, that as per Railway Board's instructions there should have been questions on official language in the written examination but no question on official language was set, moreover the objective type questions should be set for about 50% of the total marks, but no objective type question was set in the question paper, as per instructions laid down by the Railway Board.

3. The applicant has also mentioned that O.A. No.1945/94 was preferred by him and in that O.A., the Tribunal issued directions on 1.2.1995 with the following observations :

"M.A.271/95 has been filed. The applicants have challenged in the OA, the holding of the examination to fill up the post of IOC in pursuance of the Annexure-A1 memorandum. By way of interim relief, we permitted the applicants to appear in the test, held in pursuance of the Annex. A1 memo without prejudice to the stands taken by them in the OA, challenging the holding of examination itself.

In the MA, the applicants are aggrieved by the question papers given in the test on the ground that they are not in conformity with the Rules and instructions in this behalf. It is prayed that the respondents be restrained from holding the *viva voce* test based on this written examination, pending a final decision of the original application. We are of the view that, if the applicants want to challenge the question papers in the test, that would be a separate cause of action and actions should be taken to institute fresh proceedings.

In the circumstances, we do not find any merit in the MA and is dismissed with liberty to the applicants to take independent action, if so advised."

Therefore, the applicant has preferred the present O.A.

4. The official respondents, i.e., respondents 1 and 2, filed their counter and mainly pleaded therein that the grade of Senior Cashier Grade I and Inspector of Cashiers are the same and also that Senior Cashier Grade I is non-selection post whereas Inspector of Cashiers is a selection post the zone of consideration for which is Senior Cashier Grade I. In case of non-availability of desired number of candidates from Sr. Cashier Grade I, the Sr. Cashier Grade II are also eligible for appearing in the selection of Inspector of Cashiers vide Railway Board's letter No.E-199/1/94/PMI/9 dated 2.9.1994. Copy of this order has been annexed as Annexure R-II to the counter. Thereby, it has been clarified that the alleged enlargement of zone of consideration is just in accordance with the policy of the Railway Board.

5. About setting of the question papers with reference to official language and objective type questions, it has been contended by the respondents that the instructions of the Board have been followed in its spirit and no prejudice has been caused to the applicant. Moreover, it has been mentioned that the applicant has failed in the written test in which he appeared. The applicant has filed rejoinder to this

counter and reiterated the plea taken earlier. The respondents No.3 to 6 have also filed their counter mainly taking the plea that nothing irregular or against rules has been done in enlarging the zone of eligibility and setting of question papers. The applicant has preferred a rejoinder against this counter as well, but nothing new has been mentioned therein.

6. We have heard the learned counsel from both contesting parties and perused the record with particular reference to referred legal position and the circular orders.

7. The applicant has contended that all the selections should be conducted regularly as per extant instructions. The vacancies in selection posts should be filled up by holding the selections every year. But in this matter no selection of IOC/ADC was held after 1991 and the vacancies of various years were clubbed in the present selection thus violating the extant instructions of the Railway Board. The learned counsel for the respondents drew our attention towards the fact that the post of Senior Cashier Grade I (Rs.1600-2660 (RPS)) came in existence w.e.f. 1.3.1993 vide Railway Board's letter dated 22.3.1994 against the restructuring of the cadre and that the post of Senior Cashier Grade I (Rs.1600-2660) is a non-selection post whereas the post of Inspector of Cashiers is a selection post. Therefore, no question of clubbing of the vacancies arises. We find force in this contention.

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8. The applicant has also challenged the proceedings of provisional selection on the ground that the zone of consideration has been enlarged which is in violation of the Railway Board's instructions. Elaborating this contention, the applicant pleaded that the willingness of Senior Cashiers Grade I and Senior Cashiers Grade II was called for appearing in the selection only to give benefit to the juniors who were not within the normal zone of consideration. We find from the Board's letter dated 2.9.1984, Annexure R-II, that in case of non-availability of desired number of candidates from Sr. Cashier Grade I (Rs.1400-2300) (Rs.1600-2660), Sr. Cashiers Grade II (Rs.1400-2300) are also eligible for appearing in the selection of Inspector of Cashiers and, therefore, it is wrong to say that the zone of consideration was enlarged and we find no force in this contention.

9. The applicant has also assailed the mode of examination on two counts - firstly, that no question on official language policy under official language rules was given in the written test and thereby there is violation of extant instructions of the Railway Board, and, secondly that as per Board's letter dated 17.4.1984 it has been decided that whenever a written test is held for promotion to the highest grade selection post in a category, objective type questions should be set for about 50% of the total marks of the written test, but in the written test under consideration no objective type question was set in the question paper. We gave thoughtful consideration

to this plea as well and we find that the letters by the Board referred to in respect of official language policy as well as objective type questions are only suggestive in nature and not mandatory having statutory force. Moreover, the applicant has failed to show that he was prejudiced by it. The replies filed by official respondents and respondent Nos. 3-6 have also mentioned that the applicant failed in all attempts in the tests. There is nothing to show that it resulted in unfairness to applicant by any means.

10. With the above discussion, we find no force in this application and as a result there is no good reason for interference. The application is dismissed accordingly. No costs.

R. K. Ahooja
(R. K. Ahooja)
Member (A)

Syed Khalid Idris Naqvi
(Syed Khalid Idris Naqvi)
Member (J)

/as/