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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2206/96

New Delhi this the 10th Day of February 1999.

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)
Hon'ble Shri R.K. Ahooja, Member (A)

1. Shri Thakur Singh,
S/o Shri Chand Singh,
Office Superintendent,
Commercial Branch,
Northern Railway Hqs.,
Baroda House,
New Delhi.
2. Shri Surendra Pal Singh,
S/o Shri A.S. Manchanda,
C.M.I.
3. Smt. Suman Nanavaty,
S/o Shri Ravindra Nanavaty,
C.R.C
4. Smt. Sunita,
D/o Shri G.S. Dass,
C.R.C.
5. Shri Ramji Lal,
Sharman,
Comml. Supdtt.

All are working under Chief Commercial Manager,
Northern Railway, New Delhi. Applicants

(By Advocate: Shri B.S. Maine with
Shri Sudheer)

-Versus-

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chief Commercial Manager,
Northern Railway,
Baroda House,
New Delhi.
3. The Chief Personnel Officer,
Northern Railway,
Baroda House,
New Delhi. Respondents

(By Advocate: Shri B.S. Jain)

O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

The applicants, 5 in number, have been working in the Commercial Branch of the Northern Railway against Group 'C' posts. As per Indian Railways Establishment Manual (IREM) they are eligible to appear in the Limited Departmental Competitive Examination (LDCE) for promotion to gazetted cadre Group 'B' post of Assistant Commercial Manager. For this examination, the respondents issued notification vide their letter dated 31.7.1995. The applicants also applied and having been found eligible, their names were included in the list of the candidates for the examination scheduled to be held on 7.1.1996. The written examination was, however, postponed vide successive telegrams dated 29.1.1996, 19.2.1996, 23.3.1996, 3.4.1996, 16.5.1996, 30.5.1996 and was finally held on 14.7.1996. The applicants allege that they and other staff working at various divisions of the Northern Railway were not advised about the new date of the examination. For this reason, they were not able to participate in the examination. They have, therefore, come before the Tribunal with the prayer that the respondents be directed to hold a supplementary examination for the applicants as well as for the other candidates who could not appear in the examination for lack of information.

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2. The respondents in their reply have stated that when the written examination for 9.6.1996, was fixed, the Northern Railway Unions at their P.N.M. Meeting held with the General Manager on 30th and 31st May 1996 represented for its postponement and accordingly the written test was postponed to 14.7.1996 and all concerned were informed by wireless dated 30.5.1996. They also state that adequate notice was given to all the candidates. They submit that the applicants were working in the Commercial Branch of the Headquarters Office at New Delhi and Applicant No. 5 who is working as Supdt. (General) was himself responsible for getting the said notice dated 30.5.1996 noted by sixteen candidates working in the Commercial Branch; of these ten candidates have confirmed in writing that they were duly informed verbally by Applicant No. 5. Nine out of the sixteen candidates also appeared in the written test. Respondents allege that Applicant No. 5 has given a false affidavit that he was not aware of the written test fixed for 14.7.1996. It has further been submitted by the respondents that Applicant No. 1 is working as Superintendent (MC-1) and his duties involve maintaining the records of the meetings of recognised Unions and he cannot deny knowledge therefore of the postponement of the test scheduled for 14.7.1996. Even his next subordinate has stated that he was informed by Applicant No. 1 that the written test was fixed for 14.7.1996. Applicant No. 4 is on the sick list from 6.3.1996 and the respondents

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submit that she could not take the test due to her illness. Similarly, Applicant No. 3 underwent an operation on 15.7.1996 and remained on sick leave upto 30.6.1996 which according to the respondents clearly indicates that she had no intention to appear in the written test scheduled for 14.7.1996.

3. We have heard the counsel on both sides. It has been stated by the applicants that the Union had made a representation after the test was held that a number of candidates could not appear in the examination because some of them were on hunger strike in front of the office of the Fifth Pay Commission in support of their various service demands. They also say that the Union represented that a number of candidates could not arrive in time for the test from outstation because, due to an accident, all the trains coming to Delhi were late at the relevant time. We find that none of these reasons for non appearance in the test apply in the case of the applicants. The applicants were posted in Delhi. What is more, they were posted in the Headquarters of the General Manager at Baroda House. It was confirmed by the counsel of both sides that the examination was in fact conducted in the Baroda House itself. It is, therefore, difficult to believe the version of the applicants that they were not aware that the examination had been postponed to 14.7.1996. More so, when admittedly ten of the officials some of them working along

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with the applicants took the examination on that date. In these circumstances we are inclined to believe the version of the respondents that the applicants were aware of the date of examination.

Accordingly, the O.A. is dismissed.
There will be no order as to costs.

~~R.K. Aboja~~
(R.K. Aboja)
Member (A)

~~A.V. Haridasan~~
(A.V. Haridasan)
Vice Chairman (J)

Mittal