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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

REGN. NO. O.A. 817/89

DATE OF DECISION: 29.1.1990

Bal Krishan Relhan

.... Applicant.

Versus.

Union of India & Ors.

.... Respondents.

For the applicant

.... Shri J.C. Singhal, counsel.

For the respondents

.... Shri B.K. Aggarwal, counsel.

CORAM: The Hon'ble Shri P.K. Kartha, Vice-Chairman (J).
The Hon'ble Shri I.K. Rasgotra, Member(A).

J U D G E M E N T

(Judgement of the Bench delivered by the
Hon'ble Shri I.K. Rasgotra, Member(A))

The applicant has filed this application under Section 19 of the Administrative Tribunals Act against the impugned order of Divisional Railway Manager, Northern Railway, Bikaner dated 7.4.1989 (Page 18 of the paper book) announcing the panel of selection for the post of CIT grade Rs.700-900.

2. The facts of the case are that the applicant joined Bikaner Division of Northern Railway as Ticket Collector on 27.3.1957. He was promoted as Travelling Ticket Examiner on 8.12.1962 on seniority-cum-suitability basis, Train Conductor Rs.425-640 with effect from 5.5.1981 (Selection post) and Chief Inspector Ticket/Train Conductor with effect from 1.5.1984 in the grade of Rs.550-750. He was called for written test for promotion to the higher grade of CIT Rs.700-900 vide D.R.M. Bikaner's letter dated 24.12.1986 (Page 21 of the paper book), which was held on 12.2.1987 and 1.8.1988. He

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was declared successful in the written test on 3.11.88 (Serial No. 11 of the result at page 23 of the paper book). He was called for interview on 21.11.88 (supplementary interview on 3.4.89) along with the other successful candidates. The panel or the select list of the candidates was declared on 7.4.89 (Page 18 of the paper book). The applicant did not find a place in the panel while three persons junior to him were in the panel.

3. By way of relief the applicant has prayed that:

(a) the panel declared ^dvide respondent's letter dated 7th April, 1989 (page 18 of the paper book) should be quashed ^dbeing violative of the extant instructions ^dand/being unconstitutional;

(b) the allocation of marks between the various factors as per the instructions of the Railway Board should be declared violative of Articles 14 & 16 of the Constitution which tend to make the over-all assesement subjective. Consequently it is further prayed that the senior most eligible employees including the applicant who had qualified in the written test should be declared as fit for promotion to the post of CIT - Rs. 700-900/-.

Various other reliefs sought are listed in paragraph 8 of pages 14 & 15 of the paper book.

4. The Id. Counsel for the applicant has contended that the Railway Board's instructions communicated vide letter No. E(NG)1-83 PM-1-65 (PNM)NFIR dated 17.4.84 prescribe that:

"wherever a written test is held for promotion to the highest grade Selection post in a category, objective type questions may be set for about 50% of the total marks for the written test. The remaining questions

could continue to be of the (conventional) narrative type.

It may be made clear that figure of 50% for objective type of questions is intended to be for guidance only and that it was not an inflexible percentage."

It has further been stated that the respondents have also not followed the instructions communicated in Railway Board's circular No. Hindi/81/OL/14/12 dated 14.1.1982 regarding setting a few questions on official language and Official Language Rules.

5. We heard the learned counsel of both parties on 15.11.89 and directed the respondents to produce the relevant records, including the question paper, relating to the selection by 15.12.89. We have carefully gone through the written pleadings and also perused the question paper set for the written examination. We find that the principle for allotting marks for various factors for the guidance of the Selection Board in assessing the suitability of the employees for higher posts has been lucidly defined by the Railway Board and incorporated in the Indian Railway Establishment Manual. The relative weightage has been provided to the various factors after taking into account all aspects that merit consideration for selecting a person who has to shoulder higher responsibilities and duties. The extant system for allocation of relative weightage for various factors has stood the test of time and has worked satisfactorily on the Indian Railways since 1964, with some refinements in the light of experience. These factors have a positive bearing on the administrative efficiency and cannot be faulted or termed by any stretch of imagination as manipulative. We, therefore, do not find any merit in the arguments and that such allocation of marks is violative of Articles 14 and 16 of the Constitution of India. We, however, find that the question paper set for written examination held on 12.2.87 does not contain a single question of objective

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type. As per the well accepted norms, the objective questions are structured questions which have also structured answers from which a candidate is required to choose the correct answer. The objective questions thus provide the same activator by way of the question and the answer. The question paper set for the examination does not meet these requirements.

The total absence of any objective type of questions is positively in violation of the policy directive of the Railway Board. We observe that a similar matter had come up for adjudication in OA No. 6385/1987- Munshi Ram and another vs. UOI & Others and OA No. 1596/JK/87. The applications were allowed on the ground that the question papers were ^{not} set in accordance with the directions of the Railway Board.

6. Accordingly the written test held on 12.2.1987 and 1.8.1988 ^(supplementary) in terms of respondent's letter dated 24.12.1986 (page 21 of the paper book) and the ^(supplementary) interviews held on 21.11.1988 and 3.4.1989 based on the results of the aforesaid written test and the empanelment of candidates based thereon in the respondent's letter dated 7th April, 1989 (page 18 of the paper book) are hereby quashed and set aside. We further direct that the respondents should hold fresh selections in accordance with the relevant rules and orders and make regular appointments on the basis of the results of the fresh selection. The application is thus disposed of as above with no orders as to the costs.

I.K. Rasgotra
(I.K. Rasgotra)
Member (A) 29/11/1990

P.K. Kartha
(P.K. Kartha)
Vice Chairman(J) 29/11/90