

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00107/2019

HYDERABAD, this the 19th day of October, 2020

**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



G.Surendra S/o G.Jaya Ramudu,
Aged 40 years, Occ : Pharmacist,
O/o The Assistant Chief Medical Superintendent,
Health Unit, Hyderabad Division, South Central Railway,
Kacheguda, Hyderabad-500 027.

...Applicant
(By Advocate : Mr. K.R.K.V.Prasad)

Vs.

1. Union of India Rep by
The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. The Principal Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. The Divisional Railway Manager,
South Central Railway, Hyderabad Division,
Hyderabad Bhavan, Secunderabad.
4. The Senior Divisional Personnel Officer,
South Central Railway, Hyderabad Division,
Hyderabad Bhavan, Secunderabad.Respondents

(By Advocate : Mrs.A.P.Lakshmi, SC for Railways)

ORAL ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed in regard to the proceedings issued by the respondents vide letter dt. 24.07.2018 read with letter dt. 28.09.2018 in regard to the selection for the post of Staff and Welfare Inspector.
3. Brief facts of the case are that the applicant, while working as Pharmacist in the respondent organization, applied for the post of Staff and Welfare Inspector in response to the notification dt. 08.11.2017. The 4th respondent notified 1 UR vacancy mentioning scheme of selection as written examination followed by perusal of the service record and that the final panel will be in the order of merit in the written examination and record of service. The applicant, having the requisite qualification, applied for the post and appeared in the examination held on 27.06.2018 along with 4 other eligible candidates. The applicant prepared for the examination based on the question bank and study material supplied by the Personnel Branch of the respondents. However, none of the candidates have qualified in the written examination conducted on 27.06.2018. The applicant sought a Xerox copy of the answer sheet and the Key for the objective type of questions under RTI. The Asst. Public Information Officer, Hyderabad Division permitted the applicant to peruse the answer booklet. During the perusal of the answer sheet, applicant was shown the answer key prepared for the objective type questions. Applicant found several mistakes in the answer key and as a result, marks were not awarded though he gave right

answers. Applicant noted the mistakes and represented on 08.09.2018 seeking revaluation of the answer booklets. There was no response to the representation made and hence, he submitted a representation to the Additional Divisional Railway Manager, who endorsed on his representation dt. 22.09.2018 remarking that there appears to be some substance in the representation of the applicant. However, 4th respondent vide impugned order dt. 28.09.2018, by taking a stand that the training material supplied was meant for general guidance of staff and that they should refer to the Codes, Manuals and original instructions of the Railway Board, for proper appreciation of the rules, rejected the request made. Aggrieved, the OA has been filed.

4. The contentions of the applicant are that the stand taken by the respondents claiming that the answer to question No. 37 is wrong and though the answer for question No. 40 is correct, it would not in any way change the result of the applicant since he got 59 marks against 60 required is unfair, since other contentions made were ignored. Moreover, in respect of descriptive question i.e. Question No. 9 also, the stand of the respondents is incorrect. The applicant represented to the respondents demonstrating the basis for getting one more mark which would thus enable him to clear the examination. However, there was no reply to the representation. Thereafter, applicant tried to obtain information under RTI Act in different Divisions of the respondents organization. Based on the same, applicant contends that he has a fair chance of clearing the examination. Details have been furnished by the applicant in para 4.7 of the OA in regard to the answers given by the applicant in order to demonstrate as to why he has to



get more marks. Applicant states that he would have cleared the examination but for the wrong interpretation of the answers by the respondents. General Manager of a Railway Zone is competent to take a decision where re-evaluation is required to be ordered, as per Railway Board letter dated 8.7.2009. When the applicant has represented about the discrepancy in the evaluation of his answer sheet, the matter should have been taken up with the General Manager, but was not done so.

5. Respondents in their reply statement confirmed that there was a notification issued on 08.11.2017 to fill up 1 UR vacancy of Staff and Welfare Inspector. The selection process involves written examination and perusal of service records. Applicant and 4 others appeared in the examination held on 27.06.2018. None of them qualified since they did not secure minimum cut off marks of 60%. Accordingly, the same was informed on 24.07.2018. Applicant secured 58 marks out of 100 and therefore was disqualified. Besides, applicant was permitted under RTI Act to peruse the answer booklet and key for objective questions, which he did in the presence of APO/T/HYB and based on the said perusal, he made an appeal on 08.09.2018 for re-evaluating and re-counting of his answer booklet, followed by a reminder on 22.09.2018. A reply was given on 28.09.2018. Respondents state that the candidates who attend written examination are provided with question banks purely for the purpose of guidance. Candidates are required to check the veracity of the material with reference to the latest rules and circulars. As such, candidates in their own interest are required to verify the correctness of the answers in the material they rely on for preparation. In general, question banks are not the only material



that is to be depended upon for any examination. Examination for Staff and Welfare inspector requires candidates to be familiar with the benefits extended to the employees as in-charge of the welfare of the employees.

Further, in the training material supplied to the candidates, it was clearly stated in the foreword that “this book has been prepared only for the general guidance of our staff. They may further refer the Cods, Manuals and original Railway Board instructions for better appreciation of the rules”.

Therefore, applicant trying to blame the respondents for the inadvertent print mistakes for his failure to qualify in the written examination is illogical. Para 4.7 of the reply statement presents the answers that ought to be given with reference to the questions adduced by the applicant in para 4.7 of the OA. Respondents submit that applicant got 58 marks against 60 and even if one mark were to be added for question No.4, which they conceded, he would get only 59 marks and therefore, applicant would not have qualified. Railway Board letter dt. 08.07.2009 is not applicable to the case of the applicant as there has been no vigilance investigation.

6. Heard learned counsel for both sides and perused the pleadings on record.

7(I) The dispute in the instant OA is in regard to awarding of marks to the answers given by the applicant who appeared in the examination held for selection to the post of Staff and Welfare Inspector on 27.06.2018. Applicant states that he has given the answers based on the training material and booklets supplied by the respondents. Hence, it would not be proper for the respondents to take a stance that the answers given in the



training material could not be relied upon. Besides, applicant in para 4.7 of the OA elaborately stated the reasons as to why his answers to the relevant questions were correct. Responding to the same, respondents in reply at para 4.7 of the reply statement have specified the answers to be given.



While doing so, they admitted the contention of the applicant in respect of the answer given to the question No. 40. By adding one mark for the said question, the applicant would be getting 59 marks and still he would fall short of one mark to qualify i.e. 60 marks. Applicant has also submitted that even in regard to descriptive questions he has to get additional marks, if the answers were properly evaluated. Such matters are to be looked into by an expert committee which has domain knowledge and the interpretation should not be left to the respondents or to the applicant. More so, when it involves the career of an employee who would have worked hard to appear in the exam and similarly respondents would have made equal efforts to make elaborate arrangements to conduct the exam. Respondents' purpose of conducting the exam is to ensure that the right candidate is selected. However, in the process the evaluation process should not be riddled with uncertainties as is seen in the instant case. Admission of the respondents that they have wrongly evaluated question number 40 gives room for doubts to arise, as to whether other answers were assessed properly. Therefore, the need for a second look, to ensure justice is rendered.

II. After hearing both sides and going through the details of the case, we are of the view that there is scope for ample interpretation of the versions given by both sides, in respect of the answers given. However, correct interpretation can be given only by an Expert Committee, which has

competency to do so. The Tribunal would have to tread carefully in dealing with such matters since it involves matters which can be best dealt by the respondents with the assistance of those who matter. Applicant has failed in the examination by only one mark and he claims that some more marks are to be awarded to him based on the interpretation given by him in respect of vagueness of the questions framed by the respondents. These are the questions, which, we observe, are to be looked into by the expert body. We do not like to bank on the submissions made by either side in regard to the correctness of the answers, without having the wherewithal to do so.

III. Hence, in the interest of justice, we direct the 1st respondent to constitute an expert committee with domain knowledge to go into the contentions raised by the applicant in the OA and also the replies given by the respondents and thereafter decide the marks that have to be awarded to the applicant. The committee may be formed by officers belonging to a division other than the one in which the applicant is working. Based on the recommendations of the expert committee, the examination result may be accordingly declared. The entire exercise has to be completed in a period of 6 weeks from the date of receipt of copy of this order.

With the above direction, the OA is disposed, with no order as to costs.

**(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)
JUDICIAL MEMBER**

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