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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. 2002/91

Date of decision 11.10.91

Sh.Kundan Singh

Applicant.

Sh.P.L.Mimroth with  
Sh.S. C.Luthra.

Counsel for the applicant.

Versus

Union of India & Ors.

Respondents.

Sh.Romesh Gautam

Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman (J).  
The Hon'ble Sh.I.P.Gupta, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? x
2. To be referred to the Reporter or not? x
3. Whether their Lordships wish to see the fair copy of the Judgement? x
4. Whether it needs to be circulated to other Benches of the Tribunal? x

J U D G E M E N T

(Delivered by Hon'ble Sh.I.P.Gupta, Member(A) ).

*Ad*

In this application, filed under Section 19 of the Administrative Tribunals Act, the applicants are Senior Section Officers of the Northern Railway. They were eligible for selection to the post of Assistant Accounts Officer (Class II) against 75% quota. The respondents had decided to hold written examination on 6.3.91 for forming a panel of 28 persons against 75% quota for promotion as Assistant Accounts Officer (Class II). They had invited willingness or otherwise from the eligible candidates and the applicants submitted their willingness in that regard. The respondents circulated the combined seniority list of eligible as well as willing candidates for selection of Assistant Accounts Officer with their respective Roll numbers and the applicants' Roll numbers were also indicated therein. The applicants appeared in the written test held on 2.4.91.

2. According to Railway Board's letter dated 22/23.6.74, in case of promotions from Class III to Class II posts in the Accounts Department marks were allotted on the following basis:

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|                                                                                  | <u>maximum<br/>marks</u> | <u>Qualifying<br/>marks.</u> |
|----------------------------------------------------------------------------------|--------------------------|------------------------------|
| 1) Professional ability:                                                         |                          |                              |
| a) Written test                                                                  | 25                       | 30                           |
| b) Viva-voce test                                                                | 25                       |                              |
| 2) Record of service                                                             | 25                       | 15                           |
| 3) Personality, address leadership<br>and academic, technical<br>qualifications. | 25                       | 15                           |
|                                                                                  | -----                    | -----                        |
|                                                                                  | 100                      | 60                           |
|                                                                                  | -----                    | -----                        |

3. However, by a subsequent order issued on 8.5.91 the maximum marks and qualifying marks of selection were changed as follows:

|                                                                                  | <u>Maximum<br/>marks</u> | <u>Qualifying<br/>marks</u> |
|----------------------------------------------------------------------------------|--------------------------|-----------------------------|
| 1) Written test (to adjudge<br>professional ability)                             | 50                       | 30                          |
| 2. Record of service                                                             | 25                       | 15                          |
| 3. Personality, address leadership<br>and academic, technical<br>qualifications. | 25                       | 15                          |
|                                                                                  | -----                    | -----                       |
|                                                                                  | 100                      | 60                          |
|                                                                                  | -----                    | -----                       |

The letter of 8th May '81 also stipulated that the above instructions would take effect from the date of issue. However, the selections in which professional ability have already been assessed before the receipt of these instructions partly on the basis of written test and partly through viva-voce, need not be interrupted and may be finalised as per earlier instructions of 22/23.6.74. On the basis of revised instructions issued on 8.5.91, the applicants did not secure the minimum qualifying marks of 30 out of 50 marks in the written examination and therefore, they were not included in the list circulated on 12.7.91 to candidates for appearing at the viva-voce test on 30.7.91 and 31.7.91

4. The plea of the respondents is that since the applicants had failed to secure the minimum qualifying marks, they were not called for interview. The respondents have also held that the written

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test for the post of A.A.O., Class II was held on 2.4.91 and supplementary test was held on 27.4.91 and the said tests were strictly in compliance with the letter of 8.5.91. The answer books were handed over to the examiner for revaluation only on 7.5.91 and the answer sheets have been revalued after the letter of 8.5.91.

5. An interim relief was granted on 30.7.91 to the effect that the applicants should be permitted to take part in the interview to be held on 31.7.91 at Delhi. The result shall be subject to the final decision in the O.A.

6. The learned counsel for the applicants and the respondents were heard at length, both on interim relief as also on the main application. Since the arguments have been extensive we have decided to dispose of the main application itself.

7. The reliefs sought in the main application are:

i) The letter dated 12.7.91, issued by the respondent No.2 excluding the names of the applicants from the list of eligible candidates for viva-voce test be quashed.

ii) The respondents be directed to follow strictly the provisions of Indian Railway Establishment Manual, Volume I and instructions contained in Railway Board's letter dated 22/23.6.74 which stipulates <sup>that</sup> ~~for~~ professional ability should be judged partly through a written test and partly through a viva-voce test.

iii) The respondents be directed to restrain from amending, altering the service conditions of the applicants by amending the Board's letter dated 22/23.6.74 which <sup>may</sup> adversely affect the interest of the applicants without affording them due reasonable opportunity.

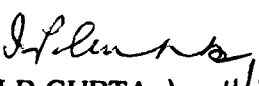
8. At the time when the applicants took the written exam i.e. on 2.4.91 the prevailing instructions were of 22/23.6.74. It was then stipulated that the professional ability should be judged on a

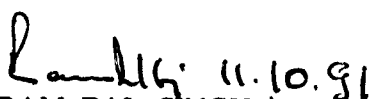
maximum of 50 marks out of which 25 would be in written test and 25 in viva-voce test. The qualifying marks to be obtained was 30 after both the written test and viva-voce test. Having taken exam on that basis the criteria should not be changed to the detriment of the applicant's <sup>interest</sup>. The instructions dated 8.5.91 should govern only those cases where selections are initiated after 8.5.91 and the written tests are also held after 8.5.91.

9. In the above view of the matter, we direct that:-

- i) The letter dated 12.7.91 excluding the names of the applicants from viva-voce test, be quashed.
- ii) The cases of the applicants should be governed by the instructions of 22/23.6.74 and their viva-voce test taken and their professional ability be judged on the basis of marks obtained both in the written and viva-voce test.

10. With the above directions and orders the case is disposed of. There is no order as to costs.

  
( L.P.GUPTA ) 11/10/91  
MEMBER(A)

  
( RAM PAL SINGH ) 11.10.91  
VICE CHAIRMAN (J)