

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 310/91
T.A. No.

199

DATE OF DECISION 19.12.1991

Shri Leela Ram & Others	Petitioner Applicants
Shri D.P. Sood	Advocate for the Petitioner(s) Applicant
Versus	
Union of India & Others	Respondent
Shri M.L. Verma	Advocate for the Respondent(s) 1&2
Shri Vijay Mehta,	Advocate for Respondents 3-6.

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

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

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The ten applicants before us are Copy Holders working in the Government of India Press, Faridabad. Their next promotion is to the post of Reviser and thereafter, to the post of Reader which is filled up in accordance with the provisions of the Government of India Press (Non-Gazetted and Non-Ministerial post) Recruitment Rules, 1985 (1985 Rules, for short), made under the proviso to Article 309 of the Constitution. The rules governing the holding of Readership Examination were contained in the Readership (Recruitment to the post of Readers Grade II Examination) Rules, 1973 which were

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superseded with the coming into force of the new Rules on 4.11.1985. These rules are non-statutory in nature.

2. The respondents held Readership Examination on 29.7.1990. The applicants and Respondents 3 to 6 took the said examination. While the applicants were not successful, Respondents 3 to 6 became successful at the said Examination. The applicants have sought for the following reliefs:-

- (a) Quash the result of Readership Examination 1990;
- (b) issue directions to the respondents to fill the non-selection quota of vacancies of Readers from 14.2.1985 on the seniority basis;
- (c) maintain and circulate the seniority list of Copy Holders/Revisers clearly mentioning 'qualified' against the names of persons who qualify the Readership Examination;
- (d) allow the application with cost; and
- (e) any other relief/reliefs as deemed appropriate in the circumstances of the case.

3. On 7.2.1991, an interim order was passed directing that no regular appointments of Readers pursuant to the impugned selection, if any, be made by the respondents.

The interim order has been continued thereafter till the case was finally heard and orders were reserved on 13.9.1991.

4. The case of the applicants may be summed up as follows. The 1985 Rules provide 55% quota for seniority and 45% quota for merit. They have alleged that the respondents have sought to fill the non-selection posts of seniors from juniors and on merit basis contrary to the Rules. The minimum qualifying percentage of marks in both the papers is 50%, but the respondents have sought to pass certain persons obtaining less than qualifying marks. They have also varied the minimum qualifying marks to favour some persons and have awarded merit marks to a few persons without rules and procedures.

5. The respondents have stated in their counter-affidavit that the qualifying marks were fixed at 33% for general candidates and 28% for S.C. and S.T. candidates for each of the two papers. This percentage of qualifying marks was fixed by the Board of Examination constituted by Director of Printing. The respondent Nos.3,4,5 have secured the prescribed qualifying marks in each of the two papers. The applicants failed to obtain the qualifying marks and as such, were declared unsuccessful. Marks obtained by them are as under:-

Name	Subjects	
	English	Hindi
1. Shri Leela Ram	01	43

2. Shri Panna Lal, C.H.	09	58
3. Shri Lankush Ram Sharma, C.H.	18	71
4. Shri Lela Ram, C.H.	22	57
5. Shri Dhirajpal Chetri, C.H.	20	75
6. Shri Inder Narain Jha, C.H.	21	78
7. Shri T.D. Joshi, C.H.	02	72
8. Shri Ram Pal Singh, C.H.	11	50
9. Shri Jai Ram Dagar, C.H.	00	42
10. Shri R.P. Sambaria, C.H.	06	59

6. The respondents have further stated that service records of the qualified candidates were evaluated by a Sub-Committee appointed by the Board of Examination. No extra marks have been given to any candidate. ~~xxxxxx~~

~~xxxxxx~~ Evaluation of record of service of candidates who secured qualifying marks in each of the two papers separately was done out of a maximum of 100 marks. These marks have been given only for the selection out of 45% of vacancies as provided for in the recruitment rules for the post of Reader. The evaluation of service records of the applicants has not been done as they have not qualified in each of the two written papers.

7. We have gone through the records of the case and have considered the contention of all the parties, including the case law cited by them. The relevant provisions of the 1985 Rules are as follows:-

Name of the post	: Reader
Whether selection post or non-selection post	: 55% Non-selection 45% Selection.

Method of recruitment : By promotion, failing
whether by direct which by transfer or
recruitment or by promotion deputation and failing
or by deputation/transfer both by direct recruit-
and percentage of vacancies ment.
to be filled by various
methods.

In case of recruitment : Promotion:
by promotion/deputation
transfer, grades from (i) 53% of the vacancies
which promotion, transfer shall be filled from the
on deputation to be made. grade of Reviser with
3 years regular service
in the grade of Copy
Holder with 5 years
regular service in the
grade on the basis of
seniority subject to
their qualifying in the
Trade Test called
Readership Examination to
be conducted by the
Directorate of Printing.
(ii) 45% of the vacancies
shall be filled on the
basis of merit through
Readership Examination
to be conducted by
Directorate of Printing.
Transfer on deputation:
Readers of other Govern-
ment of India Presses
(Period of deputation
shall ordinarily not
exceed 3 years).

8. It has been stipulated in the Rules for the Examination
that after the examination, the result will be communicated
to the Heads of Presses in two lists as under:-

(A) List I -

List I will contain the names of the candidates who
qualify the examination by securing not less than the minimum
percentage of marks fixed for the purpose. The list will be
arranged according to merit as disclosed by the aggregate
marks finally awarded to each candidate.

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(B) List II

List II will contain the names of failed candidates.

Note: 1

Vacancies of Readers of both seniority as well as merit quota will be filled up from among the candidates included in List I.

Note 2

The examination will be competitive for filling up the 'merit' quota vacancies and qualifying for the 'seniority' quota as laid down in the Recruitment Rules for the post of Reader. The list may contain more names than the actual number of candidates required to fill up the available vacancies. The object is to enlarge the scope for the seniority quota vacancies. Inclusion in List-I does not confer any right to appointment as Reader and in the ordinary course, the number of candidates finally appointed as Reader will not exceed the number of vacancies indicated in the notice of Examination referred to herein before, irrespective of the number of candidates included in List-I.

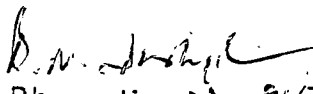
9. Para.6 of the Appendix to the said Rules reads as follows:-

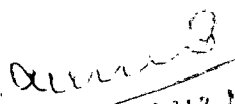
"The Board of Examination has discretion to fix x qualifying marks in either or both the papers of the examination and also the overall qualifying marks after addition of marks as a result of evaluation of record of service. Such qualifying marks may vary from Press to Press."

10. There is nothing on record to indicate that the respondents exceeded the merit quota and reduced the seniority quota on the basis of the results of the 1990

Examination. We also do not see any infirmity in the provision of the Rules of the Examination vesting the discretion in the Board of Examination to fix the qualifying marks in either or both the papers of the examination and also the overall qualifying marks. There is nothing on record ^{to indicate} that the respondents showed undue favour to any particular candidate or candidates. Having appeared and failed in the Examination, the applicants cannot challenge the very rules under which the examination was held. (Vide B.L. Sharma Vs. U.P.S.C., 1991 (1) C.S.J.237; Brij Kishore Pandey Vs. Union of India, 1988 (8) A.T.C.853).

11. In the light of the above discussion, we see no merit in the present application and the same is dismissed, leaving the parties to bear their own costs. The interim order passed on 7.2.1991 and continued thereafter, is hereby vacated.


(B.N. Dhoundiyal) 19/12/91
Administrative Member


19/12/91
(P.K. Kartha)
Vice-Chairman(Judl.)