Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

Original Application No. 402/96

this the 12th day of February' 2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER(J)
HON'BLE MR. C.S. CHADHA, MEMBER(A)

1. Abdul Salam, S/o Shri Abdul Kareem.
2. Ajay Kumar Jain, S/o Abhaimal Jain.
3. Narendra Singh, S/o Muneshwar Singh.
4. Sudhir Ballabh, S/o Krishna Ballabh Prasad.
5. Ashok Kumar Srivastava, S/o JMP Srivastava.
6. B.M. Srivastava, S/o Mahesh Prasad.
7. Nazeemullah, S/o H.R. Siddiqui.
8. V.C. Nand, S/o R.M. Srivastava.
9. M.O. Siddiqui, S/o late M.D. Siddiqui.
10. A.P. Pandey.
11. J.P. Arya, S/o Bidesi Ram.
12. S.N. Tripathi, S/o P.N. Tripathi.

All Inspector of Works Gr.II under the administrative control of Divisional Supdt. Engineer (Co-ordination), N.R., Allahabad.

Applicants.

By Advocate : Sri Manoj Kumar.

With

Original Application No. 540/96

1. R.C. Tripathi, S/o Sri Ram Sanehi Tripathi.
2. D.K. Sharma (Durgesh Kumar), S/o Sri R.D. Sharma.
3. Narendra Kumar, S/o late Awadh Bihari Lal.

Applicants.

By Advocate : Sri Manoj Kumar.

Versus.

1. Union of India through the General Manager, N.R. Baroda House, New Delhi.

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2. Divisional Railway Manager, N.R., Allahabad.

3. Divisional Personnel Officer, N.R., Allahabad.

4. S.L. Gupta, Senior Supdt. Engineer (N), Northern Railway, Allahabad.

5. P.K. Misra, Divisional Supdt. Engineer (Co-ordination), Northern Railway, Allahabad, and 15 others.

Respondents.

By Advocate : S/Sri A.K. Gaur & Sudhir Agrawal.

O R D E R (ORAL)

RAFIQ UDDIN, MEMBER(J)

As the facts and law involved in both the cases are common, they have been heard together and are being disposed of by a common and a consolidated order.

2. The applicants, who are holding the post of IOW Gr.II, Northern Railway, Allahabad Division, have filed these O.As for setting-aside the order dated 1.5.96 issued from the office of D.R.M., N.R., Allahabad (respondent no.2) and also for quashing the entire departmental selection proceedings which were held for the post of IOW Gr.I in the grade of Rs.2000-3200/-. The applicants further seek direction to the respondents to dispose of the pending representations dated 26.2.96 and 2.4.96 (Annexure nos. 6 & 7 in O.A. no. 402/96).

3. Briefly stated the undisputed facts of the case are that the respondents vide notification dated 31.1.96 notified 15 general + 2 reserved posts of IOW Gr.I in the pay-scale of Rs. 2000-3200 and issued a list of 36 eligible persons for holding selection for the aforesaid post. A written test was held on 24.2.96 and the Supplementary test was also held on 2.3.96. The names of the applicants were appeared in the eligibility list. All the applicants alongwith others appeared in the written examination. The grievance of the applicants is that the question papers ~~xxxxxxxxxx~~ did not contain 50% objective type questions

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as provided Railway Board's letter dated 31.1.90. The next grievance of the applicants is that the question paper was typed only in English language and not bilingual as per the requirement laid down in Railway's Board's letter dated 7.9.88. The last grievance of the applicants is that the question paper did not contain any question pertaining to Public Amenity as provided in Railway Board's letter dated 14.12.87. It is further alleged that there were two members of the selection of the same Rly Branch i.e. Engineering and Sr. DEN-IV was directly subordinate to Divisional Supdt. Engineer (Co-ordination), who was the Chairman of the selection committee, which is against the instructions contained in the Railway Board's letter dated 31.1.90.

4. The respondents have denied the claim of the applicants. The case of the respondents is that 50% objective type of questions were provided in the question paper and the question paper was also supplied in both languages. It is stated that the Divisional Supdt. Engineer (IV) and Divisional Supdt. Engineer (Co-ordination) are of the same status and both the incumbents belong to the same department.

5. We have heard the learned counsel for the parties and have perused the pleadings on record.

6. We find from the pleadings that the applicants have not challenged the claim of the respondents that the question paper did contain 50% marks for objective type of questions as per the instructions of the Railway Board. The applicants have clearly admitted vide para 4.4 of their O.A. that the applicants were given billingual question paper and were asked to solve the same. As regards their claim that the same was supplied after more than one hour, the respondents have denied this allegation in their Counter reply. The applicants have not specifically stated anything in rebutal. Thus, it is not established that the applicants were not given the billingual question paper during the written examination. Rly

7. The next submission of the applicants is that the question pertaining to public amenity was not shown in the question paper. We find from the perusal of the Railway Board's letter dated 14.12.1987 (Annexure A-5) that the same is merely obligatory and not mandatory. It is only provided that the question of public amenity may be included, if possible. Therefore, we do not find any irregularity or illegality in the question paper if the question of public amenity was not provided in the written examination and the same cannot be quashed on this ground.

8. It has vehemently been argued by the learned counsel for the applicants that in the committee of two officers namely DEN-IV was directly subordinate to Divisional Supdt. Engineer (Co-ordination) as per the instructions contained in the Railway Board's letter dated 31.1.90. It is stated that both the members belong to the same department and were equal in rank and status. This fact is also not disputed by any evidence of the record.

9. The learned counsel for the applicants has brought to our notice the letter dated 18.8.98 (Annexure RA-1 to the Rejoinder), which was addressed to Law Officer, N.R., Allahabad in which a mention has been made regarding delay receipt of the answer books by one of the Members of the Selection Committee. We do not give any credence to any such document, which, as rightly pointed out by the learned counsel for the respondents, was a correspondence between privilege document being the client and his lawyer.

10. The learned counsel for the respondents have clearly denied the receipt of any representations dated 26.2.96 and 12.4.96, copies of which have been annexed as Annexure nos. 6 & 7 to O.A. No. 402/96. It is, therefore, contended that the matter was not protested by the applicants as claimed by the applicants against alleged irregularities committed in the written examination. The applicants have also

failed to prove the irregulairities committed by the respondents.

11. The learned counsel for the applicants has pointed-out that in the present case one of the relief sought by the applicants is that the records of the original selection proceedings should also be summoned for perusal. In view of our findings discussed above, there is no justification to summon the original record.

12. For the reasons stated above, both the O.As fail and the same are dismissed. No costs.

13. Copy of this order be placed in the connected O.A. also.

Sd/
Member (A)

Sd/
Member (J)