

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 22nd day of December, 2000

Original Application No.1399 of 1992

CORAM :-

Hon'ble Mr. VK Majotra, A.M.

Hon'ble Mr. Rafiquddin, J.M.

Vivek Kumar Srivastava,

Roll No.34509, Son of

Sri Mukteshwar Nath Srivastava,

Resident of 545, Buxipur, near

Jubilee Talkies, Gorakhpur.

(Sri Tarun Verma, Advocate)

.Applicant

Versus

1. Union of India through the Secretary,
Ministry of Railways, Rail Bhawan, New Delhi.
 2. Chairman Railway Recruitment Board,
Railway Recruitment Board, N.E. Railway,
Gorakhpur.
 3. General Manager, N.E. Railway,
Gorakhpur.
 4. Financial Advisor and Chief Accounts Officer,
N.E. Railway, Gorakhpur.
- (Sri VK Goel, Advocate)

. Respondents

O R D E R

By Hon'ble Mr. Rafiquddin, J.M.

The applicant Vivek Kumar Srivastava, has filed this OA for issuing direction to the respondents to declare him as having been selected in the competitive examination held for the post of Junior Accounts Assistant in N.E. Railway, Gorakhpur and to issue him appointment letter.

2. Briefly stated the facts of this case are that the recruitment for 150 posts of Junior Accounts Assistants

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(which has been wrongly mentioned as Clerical Grade I of Accounts) was made on the basis of written examination and the interview conducted by the Railway Recruitment Board, Gorakhpur (RRB in short). According to the respondents 24405 candidates including the applicant appeared in the written examination which was held at various centres at Gorakhpur, Basti, Gonda, Deoria, Lucknow, Bareilly, Maghar, Sahjahanwa and Khalidabad, on 1-10-1989. The applicant was called for the written test and appeared in the interview which was held on 9-3-1991.

3. The grievance of the applicant is that he had secured 100 marks out of 125 marks but he has not been selected while the candidates securing merely 95 marks out of 125 marks have been declared successful.

4. We have heard learned counsel for the parties and perused the record.

5. It has been contended on behalf of the respondents on the basis of pleadings that since the written examinations were held at various centres and there were complaints of malpractices and unfair means having been adopted by the candidates during the written examination and various complaints were received for declaration of the result of written examinations, a reference was made by the Chairman of the RRB seeking direction from the Railway Board in this matter vide letter dated 13-6-1990. The Railway Board after considering the entire matter vide letter dated 1-11-1990 directed the Chairman RRB to keep the answer sheets of top 520 candidates re-checked by a Committee of three New Examiners. It was also mentioned by the Railway Board that as the results of 520 candidates have already been declared and that on re-evaluation of answer sheets the number of candidates out of the list of 520 candidates may get reduced on account of

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low marks in re-evaluation and their names should not be eliminated as they have already been declared but equal number of candidates by the number of 520 gets reduced on re-evaluation by the Committee out of the persons who secured higher marks on re-evaluation. Accordingly, the answer sheets were got re-examined and re-evaluated by the Committee of three other examiners. After re-evaluation of the answer sheets, the list of successful candidates including those who were found successful on re-evaluation, two new Boards were constituted. One Interview Board was headed by the Chairman RRB, whereas the other Board was headed by the Member Secretary of the RRB.

6. According to the respondents, since in awarding the marks there was wide variance by the two aforesaid Boards, it was found that that the Board headed by the Member Secretary had been very liberal in awarding marks. Therefore, the entire matter was considered and it was decided that the vacancy to be filled up from two Boards prorata to the number of candidates interviewed by the two Boards separately as otherwise the number of candidates, who were interviewed by the Board headed by the Member Secretary should have been included in the panel affecting adversely the candidates who were interviewed by the Board headed by the Chairman of the Railway Board.

7. Learned counsel for the applicant has brought to our notice the order dated 30-11-1993 passed in the Bunch of cases, the leading case being OA No.40 Of 1992, in which similar controversy was involved. The Division Bench of the Tribunal has held on the question of decision taken by the respondents in respect of selection in question as under :-

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"19. We have given our anxious consideration to the rival contentions of the parties and after having gone through the pleadings and rejoinders and the relevant documents, we are of the view that the decision of the respondents to fill up the vacancies on prorata basis from the number of candidates interviewed by the two Boards on the presumed hypothesis without any reasonable nexus that the Interview Board headed by the Chairman was strict in marking and the another Board headed by the Member-cum-Secretary was liberal in marking without considering the overall performance of the candidates on the assessment of the written and Viva-Voce test before the two Boards which gave marks according to the individual performance of the candidates, was illegal and cannot be sustained which resulted in the elimination of some of the applicants who had even secured more marks than the minimum marks of 94 obtained by the last candidate chosen for appointment by the Railway/Recruitment Board.

20. With regard to the question of revaluation or checking it was contended by the learned counsel for the applicants that there cannot be revaluation. That could be rechecking but, papers cannot be revalued all over again. We agree, so far as revaluation is concerned. It is a settled proposition that answer books should not be revalued. The learned counsel for the respondents produced for our perusal the answer scripts of the candidates/applicants. We have carefully gone through the answer scripts. Admittedly, the examination was of objective type. What was of objective type. What was required was ticking or marking of correct answer among 3 or 4 alternative answers indicated under each question in the answer book itself. The questions were not of descriptive nature. The candidates were not required to write the answers of essay type. In these circumstances, it cannot be said that there was any revaluation. The instructions issued for evaluation indicates that where, there are more than one ticking under the same question, cuttings, erasures etc. scoring of marks should not be awarded. The answer book verified by us disclosed that it is precisely this which was verified in recheck and where the candidates were awarded wrongly ignoring these instructions. The defects were rectified and the corrected totals have been reached and given. For these reasons, we do not hold that it was a question of revaluation as there was nothing to be done by the examiners by way of revaluation.

21. To sum up, we hold that, what was done was not revaluation but, recheck. The respondents have erred in adopting pick and chose policy by giving appointment to successful candidates on prorata basis from the lists without considering the merit position. Though there were two interview Boards, there should have been only one common merit list and appointment made to the extent of vacancies from that single merit list. We hold that the criteria followed by the respondents in making appointment of the applicants cannot be sustained. We further hold that candidates who secured 94 marks and above, since appointed secured 94 marks, are entitled for appointment and accordingly we direct the respondents to issue appointment letters to the applicants in these cases before us, who have secured 94 marks and above in the selection."

8. It has been urged by the learned counsel for the applicant that since admittedly the applicant had secured 100 marks, he is also entitled for appointment on the

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basis of principles laid down by this Tribunal in the case cited above. We also agree with this contention and do not find it reasonable to take other views in the matter. The OA is, therefore, allowed and the respondents are directed to issue appointment letter to the applicant within a period of three months from the date of communication of this order. It is, however, made clear that the applicant will not be eligible for any pecuniary benefits except notional seniority from the date his juniors in the merit list of selection in question have been assigned. There shall be no order as to costs.

R. S. Jindal *V. K. Maheshwari*
Member (J) Member (A)

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O.A. No. 2070/01

M.A. No. 2070/01 in
O.A. 1399/92 is submitted
before Hon'ble Court for order

M.A. No. 2070/01
in
O.A. No. 1399/92

09/5/2001

Hon. Mr. S. Dayal, A.M.,
Hon. Mr. S.K.D. Nagri, J.M.

None for the applicant. Shri S.K. Mishra
proxy counsel to Shri V.K. Goyal Counsel for
the respondents.

Learned counsel for the applicant has
filed M.A. No. 2070/01 praying for grant of
3 months further time to comply with
the order of this Tribunal in O.A. No. 1399/92.
No objection has been filed by the
learned counsel for the applicant in
the O.A., though a copy of the M.A. has
already been served on him on ~~25/4/01~~
25/4/01. Time for compliance upto
22/7/2001 is granted. M.A. No. 2070/01
stands disposed of.

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J.M.

A.M.

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