

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 40 of 1992

Vijay Kumar Applicants.

Versus

Union of India & ors. Respondents.

With

Original Application No: 122 of 1992

Smt. Arti Singh Applicants.

Versus

Union of India & ors. Respondents.

With

~~Original Application No: 218 of 1992~~

~~A.A.Haider Applicants.~~

~~Versus~~

~~Union of India & ors. Respondents.~~

~~With~~

Original Application No: 405 of 1992

Shri Rakesh Chandra Sharma..... Applicants.

Versus

Union of India & ors. Respondents.

With

Original Application No: 786 of 1991

Smt. Reena Sachdeva Applicants.

Versus

Union of India & ors. Respondents.

With

Original Application No: 1228 of 1991

Amalendu Kumar Applicants.

Versus

Union of India & ors. Respondents.

Contd...../2.

Hon'ble Mr. K.Obayya, Member-A


Hon'ble Mr. A.K.Sinha, Member-J

(By Hon'ble Mr. A.K.Sinha, Member-J)

As identical reliefs based on common question of facts have been sought by the applicants in the above cases filed under Section 19 of the Administrative Tribunal Act, we have heard these together with the consent of the parties and they are being disposed of by a common judgement.

2. In all these applications, each of the applicants has prayed that a suitable order or direction be issued to the respondents to declare each of the applicants having been selected in the competitive examination of Clerical Grade-I (Accounts), North Eastern Railway, Gorakhpur and to forth with issue appointment letters to each of them and to appoint them in accordance with their merit irrespective of the interview Board in which they had appeared. In the alternative, it has been prayed that the result of the written and interview test of the selection be quashed.

3. At the outset, it may, however, be mentioned that while admitting these applications, this Hon'ble Tribunal in all these aforesaid applications had passed interim orders directing the respondents to keep one post of Clerical Grade-I (Accounts) for each of the applicants unfilled, and, during the course of argument, the learned counsel for the



respondent Mr. V.K.Goel, Advocate, submitted that the order in this regard of the Hon'ble Tribunal has been complied with, by the respondents and posts have been kept vacant.


4. In short campus, the facts giving rise to these applications are that in the year, 1989, 150 vacancies of Clerical Grade-I (Accounts) were notified in the Employment News for the North Eastern Railway by the Railway Service Commission, Gorakhpur and in pursuance thereof, these applicants applied for the said posts as they possess the requisite qualification. After registration of their application and proper scrutiny, Admit Cards were issued to each of them to appear in the written test, scheduled to be held on 1.10.1989 and each of them were given separate roll numbers respectively.

5. The applicants qualified in the written test and were called for interview conducted between 26.2.1991 and 15.3.1991 by two Boards constituted for the purpose; one headed by the Chairman of the Railway Recruitment Board with two other members and the other headed by member Secretary of the Rly. Recruiting Board and with two other members. The applicants who were successful in the written examination, appeared before interview Boards and the final result of the written test and interview was declared on 31.5.1991. The names of the applicants did not figure in the list though according to the applicants they had been called in the written test and interview. They are fully confident of

6. It is admitted that for written test 100 marks was allotted whereas for the interview test 25 marks was allotted. The case of the applicants is that out of the total marks of 125 both for the written and the interview test, the last selected candidate who was appointed had obtained only 94 marks but, the applicants (excepting Vijay Kumar of O.A. 40 of 1992) who secured/obtained more than 94 marks were denied of selection and appointment and therefore, it has been sought to be urged that the action of the respondents in making appointments of candidates securing lesser marks than the applicants was illegal, arbitrary and against the principles of natural justice besides being violative of Article 14 and 16 of the constitution of India.

7. So far as the case of Vijay Kumar of O.A. 40 of 1992 is concerned, it is stated that he is a scheduled caste candidate and he appeared in the written test and being successful he was called for interview and secured more than 100 marks out of total 125 marks but, he was not given appointment while candidates who had obtained lesser marks were declared successful and given appointment order.

8. It is further stated that out of total posts, reserved for scheduled caste, only 26 candidates were issued appointment letters and out of them only 21 have joined and thus 13 posts in the scheduled caste category are lying vacant.



9. It is common case of all the applicants that the illegality on the part of the selection was due to the fact that in one of the Boards, the candidates securing 101 marks and above were declared selected while in another Board, candidates securing 94 marks and above were selected for appointment and, therefore, the action of the respondents in adopting different criteria is discriminatory and against the principles of natural justice and fundamental rights of the candidates. It is also contended that as the selection was one, common merit list should have been followed - and not picking up candidates on pro-rata basis from the lists of the two interview Boards.


10. On notices, respondents (respondent No. 1 & 2) appeared and filed their Counter in all the aforementioned O.A.s denying the allegations of the applicants and stating inter alia that there was no arbitrariness or illegality in the action of the respondents in selecting candidates for appointment of Clerical Grade-I (Accounts) North Eastern Railway, Gorakhpur. Undisputedly, the selection to the post of Junior Accounts Assistant is made on the basis of written examination conducted by Railway Recruitment Board and the interview held by the committee, it is stated that written examination for the post of Junior Accounts Assistant was held by the Railway Recruitment Board on 1.10.1989 at various centres and a list of 520 successful candidates was prepared (vide Annexure A-1). It is averred that complaints were received

regarding mass scale cheating in the written examination and use of unfairness during the written examination and in the normal circumstances, the result of written examination should have been cancelled and in this regard a reference was made by the Chairman of the R.R.B. to the Director Establishment R.R.B. (vide Annexure RA-2) but the Railway Board after considering the entire matter, directed the Chairman, R.R.B. to get the answer sheet of top 500 candidates rechecked by committee of three members and further directed that as the result of 520 candidates were declared and on revaluation of answer sheets, the number of candidates out of list of 520 candidates may get reduced on account of obtaining low marks in revaluation, their name should not be eliminated as they have already been declared successful but equal number of candidates by which the number of 520 candidates get reduced on revaluation be added out of the persons who secured higher marks on revaluation (vide Annexure RA-3, dated 1.11.1990). In terms of Railway Board's letter dated 1.11.1990 (Annexure RA-3), the answer sheets were re-examined and revalued by a committee of three new examiners, the new committee was directed to go into the answer books and recheck them to find out mistake in totaling, marks allotted by examiner on change of answers and marks allotted by examiner erasing/ change (vide Annexure RA-4).

11. It is further stated that for the purpose of conducting interview of the candidates who were found successful including those on revaluation, two interview Boards were constituted; one headed

by the Chairman and the other headed by Member Secretary; and in the marks awarded by the Board headed by the Chairman and the Board headed by the Member Secretary, there were wide variations and the matter was considered and it was decided that the vacancies be filled up from the list of two Boards prorata basis to the number of candidates interviewed by tow Board headed by the Member Secretary and which Board had awarded marks liberally would be included in the panel effecting the candidates who were interviewed by the Board headed by the Chairman which was strict in awarding marks in interview. A copy of the notice issued by the R.R.B. dated 17.5.1991 has been annexed as Annexure RA-5.

12. The final panel of selected candidates, in pursuance of the aforementioned decision as mentioned in Annexure RA-5 dated 17.5.1991 was prepared and the names of the applicants stood eliminated while preparing the panel in the aforesaid manner. It is stated that the panel of successful candidates for appointment was prepared by picking names from two lists of candidates one selected by interview Board headed by the Chairman, Recruitment Board and the another headed by Member Secretary. The panel of successful candidates was declared by the R.R.B. on 31.3.1991 and it was sent to the head of the department i.e. the Financial Advisor Chief Accounts Officer, North Eastern Railway on 11.6.1991.



13. It is stated further that none of the candidates who got lesser marks than the applicants have been selected for appointment. The basis of preparation of merit list, it is averred, was very much rational and it cannot be said that the selection for appointment of the candidates made by the Recruitment Board in the manner as stated above was illegal or bad in law.

14. On all these allegations, it has been sought to be urged that the applicants have made no ground for interference and their case is liable to be dismissed.

15. The applicants have also filed their Rejoinders which is on the record.

16. The question for consideration is whether the applicants are entitled to the relief claimed!

17. The learned counsels of the applicants submitted that the determination of the selection based on prorata basis was illegal and arbitrary and that the revaluation of the written marks secured by the applicants was not proper because it was not the policy decision of the Railway Board as contained in letter dated 1.11.1990 to reevaluate the answer sheets of the candidates rather the direction was to recheck it by a committee of three new examiners. It was submitted by the learned counsels for the applicants that where the examination of written test was based on objective methods, the rechecking of the answer

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sheets could only be done for the purpose of ascertaining as to whether the markings were properly done or not and that the marks awarded were properly calculated or not to determine the relative position of the individual candidates on merit in the written test. It was further submitted that there could not be any revaluation of the answer sheets once it was done by the Railway Recruiting Board and that any such revaluation done and selection on prorata basis on the number of candidates interviewed by the two Boards altering the merit list to the prejudice of the candidates/applicants without any rational basis must be held to be illegal and arbitrary and against the principles of natural justice.

18. It was also submitted that the whole competitive examination for selection of candidates for appointment which consisted of written and interview test was a composite examination and the marks obtained both in the written and interview test should have been added to determine the merit of the individual performance of the candidates and any formula adopted to choose the candidates on prorata basis on the performance of their interview on the supposed or presumed hypothesis that the interview Board headed by the Chairman was strict and the order one headed by the Member Secretary was liberal and, therefore, the candidates getting lesser marks in the interview headed by the Chairman might not be eliminated from selection list for appointment was not only illegal but against the accepted normal principles of natural justice.

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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

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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 indicated 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 rechecked 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 appointments made to the extent of vacancies from that single merit list. We hold that the criteria followed by the respondents in making appointments of the applicants cannot be sustained. We further hold that candidates who secured 94 marks and above, since the last candidate appointed

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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. In the circumstances, OA. 786/1992 (Smt. Reena Sachdeva bearing Roll No. 35575) and OA. 218/1992 (Syd. Asfaque Haider bearing Roll No. 34451) deserves to be allowed as the applicants in these cases secured 100 marks in total, even after recheck much above the last candidate who was given appointment (94 marks) and we direct the respondents to issue appointment letters to them. OA. 786/1992 and OA. 218/1992 are allowed as above.

22. Similarly, it is noticed that the applicants (Amlendu Kumar in OA. 1228/1991, Roll No. 32726), (Arti Singh and Ram Dayal in OA. 122/1992, bearing Roll No. 34526 & 34586) have secured less than 94 marks even if there original marks are taken into consideration and hence, they are not entitled for the relief prayed for and they cannot be given appointment and, therefore, their applications stand dismissed.

23. With regard to Rakesh Sharma (OA. 405/1992, bearing Roll No. 34470), we find in the answer script that there are repeated cuttings which do not qualify for award of marks in recheck. The marks wrongly awarded were deducted and he secured ultimately 62 marks and, therefore, he is not entitled for the offer of appointment, and, therefore, his application also stands dismissed.

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24. The case of Bhasker Singh (OA 1228/1991, Roll No. 34473) is a marginal case for shortage of one minimum mark. On recheck, he had secured 93 marks. We direct the respondents to verify and recheck the answer on question No. 3 and in case, the applicant gets one more mark, he should also be given appointment. The process of verification and consequential relief, if any, may be completed within three months from the date of receipt of the copy of this judgement.

25. With regard to Vijay Kumar (OA. 40/92, Roll No. 67101) his candidature was disqualified because he was found indulging in copying the answer and adopting malpractice. We see no reason to interfere in the matter. In that view, there is no merit in his application and, as such, it is dismissed.

26. The applications are allowed/disposed of as above with no order as to costs.

Member-J

Member-A

Allahabad Dated: 30.6.1993

/jw/