

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1396/1995

WEDNESDAY, THIS THE 22ND DAY OF MAY, 2002

HON'BLE MAJ. GEN. K.K. SRIVASTAVA .. MEMBER (A)

HON'BLE MR. A.K. BHATNAGAR .. MEMBER (J)

Dinesh Kumar Misra,  
S/o Late Sri R.P. Misra,  
Working as Senior Clerk (Adhoc),  
Welfare Section, Staff No.8905,  
O/o the General Manager (P),  
Diesel Locomotive Works,  
Varanasi. ... Applicant

(By Advocate Shri N.P. Singh)

Versus

1. The Union of India, through  
the Secretary, Ministry of Railways,  
Rail Bhavan, New Delhi.
2. General Manager,  
Diesel Locomotive Works,  
Varanasi.
3. Chief Personnel Officer,  
Diesel Locomotive Works,  
Varanasi.
4. Dy. Chief Personnel Officer,  
Head Quarter, Baroda House,  
New Delhi.
5. Sr. Personnel Officer,  
Head Quarters, Baroda House,  
New Delhi. ... Respondents

(By Advocate Shri A. Sthalekar)

ORDER - (ORAL)

Hon'ble Maj. Gen. K.K. Srivastava, Member (A):

In this O.A., filed under Section 19 of the  
A.T. Act, 1985, the applicant has prayed that the test  
held on 18.10.1995 be quashed and the appointments made  
thereto be declared as null and void.

2. The facts, in brief giving rise to this O.A. are that the applicant was appointed as Junior Clerk on 1.12.1988 in the respondent's establishment. The applicant has been working on the post of Senior Clerk on adhoc basis vide order dated 21.4.1994. The respondents issued a notification dated 21.9.1995, to fill 4 posts of Senior Clerk General and 1 post of S.C. in the grade of Rs.1200-2040/-. The suitability test for the post of Senior Clerk was held on 18.10.1995 and the applicant appeared in the same along with 4 others. The result<sup>h</sup> was declared on 21.10.1995. The applicant submitted a representation on 19.10.1995 pointing out that in the selection test, the questions were narrative only whereas, as per Rules 50% questions ought to have been objective type. In addition to this, he also pointed out <sup>h</sup>a number of irregularities committed in holding the suitability test. The respondents without considering the representation of the applicant, again notified the suitability test vide order dated 13.11.95. The suitability test was held on 24.11.1995, but the applicant was not called to appear in the same. Hence this O.A., which has been contested by the respondents by filing counter reply.

3. The learned counsel for the applicant submitted that the suitability test was not conducted in a proper manner and it was against the rules and regulations laid down by the Railway Board vide order dated 15.12.1990 (Annexure-RA-1). As per the Railway Board, the ratio<sup>h</sup> of objective and narrative questions should be 50% each,



whereas the questions in the suitability test held on 18.10.1995 were full of narrative questions only. Thus, the selection conducted through this suitability test is not real and the action of the respondents is illegal. The learned counsel for the applicant further submitted that though there is a provision <sup>for variation</sup> of valuation in the percentage between objective questions and narrative questions, the variation can be only to a certain extent and the respondents cannot completely ignore the provisions laid down in the Railway Board circular dated 15.12.1990.

4. Shri A. Sthalekar, resisting the claim of the applicant submitted that para 219.C of the I.R.E.M. Vol.I lays down that objective type questions may be set for about 50% of the total marks for written test. "The figure of 50% for objective type of questions is intended to be for guidance and should not be construed to mean as constituting <sup>an</sup> inflexible percentage". The learned counsel for respondents also submitted that the instructions contained in the Railway Board Circular dated 15.12.1990 (Annexure-RA-1), are in the nature of guidelines and not mandatory. The action of the respondents is in no way against the laid down rules on the subject.

5. We have heard the counsel for the parties and have closely perused the records.

6. The short controversy involved in this O.A. is whether the suitability test held on 18.10.1995 conforms to the rules and regulations on the subject or not. In

order to resolve this controversy, we would like to examine the provisions contained in para 219 of the I.R.E.M. Vol. I which is a procedure to be adopted by Selection Board. For convenience sake, we would like to reproduce para 219(c) of I.R.E.M. Vol. I:-

"(C) In the written test, if any as part of the selection for promotion to the higher grade selection post in a category, objective type questions may be set for about 50% of the total marks for the written test. The figure of 50% for objective type of questions is intended to be for guidance and should not be construed to to ~~men~~as constituting a inflexible percentage."

From <sup>hm</sup>a perusal of the same, it appears that it is not obligatory that 50% questions may be of objective type and 50% questions should be of narrative type. The word used in 219(c) is that objective type questions, 'may be' set for about 50%. <sup>hm</sup>From the word 'may' it is clear <sup>hm</sup>that it is not binding and it is left to the authority <sup>hm</sup>to <sup>hm</sup>decide <sup>hm</sup>what type of questions and <sup>hm</sup>what percentage should <sup>hm</sup>the questions be framed in respect of objective and narrative types.

7. We have also perused the circular of Railway Board dated 15.10.1990 (RA-1). In para 2 of the said circular, the Railway Board has clarified that the percentage of 50% for objective and subjective type of questions is only for guidelines and is not mandatory in any way. In our view, no error of law has been committed by the respondents. We do not have any good ground to interfere and we are of the view that the action of the respondents is fully covered

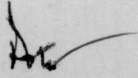
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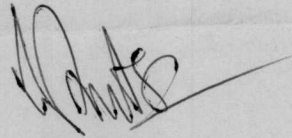
under the rules and regulations laid down on the subject.

The O.A. is devoid of merit and is liable to be dismissed.

The O.A. is accordingly dismissed. No costs.



MEMBER (J)



MEMBER (A)

psp.