

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 03rd day of March, 2004.

Original Application No. 475 of 2003.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.

Hon'ble Mr. D.R. Tiwari, Member- A.

1. Jagdish Chandra a/a 41 years
S/o Sri Patiraj Prasad, R/o Q. No. E- 152-B,
Office Colony, Izatnagar, Bareilly. Working as
Senior Khalasi (T.No.90) in the Office of Deputy
Chief Material Manager (Depot), NE Rly.,
Izatnagar, Bareilly.
2. Ashwani Kumar Sinha a/a 40 years
S/o Sri Baidnath Pd. Sinha, R/o Q.No. 124-C,
NE Rly., Office Colony, Izatnagar, Bareilly.
Posted as Senior Khalasi (T.No. 161), in the
office of Deputy Chief Material Manager (Depot),
N.E Rly., Izatnagar, Bareilly.
3. Ashok Kumar Agnihotri /a/a---years.
S/o Sri Girish Chandra, Posted as Khalasi
T.No. 217 in the office of Deputy Chief Material
Manager (Depot), NE Rly., Izatanagar, Bareilly.

.....Applicants

Counsel for the applicants :- Sri Sudhir Agarwal
Sri S.K. Mishra

V E R S U S

1. Union of India through the General Manager,
N.E. Rly., Gorakhpur.
2. The Chief Material Manager,
N.E. Rly., Gorakhpur.
3. Assistant Personnel Officer/Depot,
N.E. Rly., Izatnagar, Bareilly.
4. The District Store Controller,
N.E. Rly., Izatnagar, Bareilly.

.....Respondents

Counsel for the respondents :- Sri A.V. Srivastava

Contd...2.

O R D E R

By Hon'ble Mr. Justice S.R. Singh, VC.

Impugned herein is the order dated 13.04.2003 (Annexure- 1) whereby the written examination held for promotion from Group 'D' to Group 'C' posts under 33 1/3% quota the result of which was declared on 19.02.2003 (Annexure- 12) has been cancelled on the ground that one Sri Shesh Narain, Pravar Khalasi (T. No. 52) could not appear in the written examination due to the reasons he was ~~away~~^{away} in connection of the administrative work. It has been submitted that the respondents were not justified in cancelling the entire examination ^{merely} because one of the candidate^xs could not appear in the written test the result of which was declared on 19.02.2003. Learned counsel for the applicant submits that the respondents could have organised ^a ~~the~~ supplementary test for Sri Shesh Narain who could not appear in the written examination because of ^{being away} his ~~away~~ in connection with administrative work. Learned counsel for the respondents on the other hand submits that there is no provision for holding supplementary test. Learned counsel for the respondents further submits that the written test was held against 33 1/3% departmental quota under the provision of para 188 and 189 of Indian Railway Establishment Mannual (IREM) which do not specifically provide for a supplementary test and, therefore, the department had no option but to cancel the entire result of the written test.

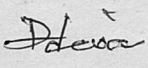
2. We have given our anxious consideration ^{to the submission} made across the Bar. Para 223 of the I.R.E.M provides for supplementary selection/suitability test in following type of cases :-

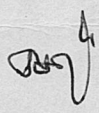
- (a) summons for interview being recieved too late by the candidates making it difficult for him to reach the place of interview;
- (b) Administration's failure to relieve him in time for interview;

- (c) Sickness of the candidate or other reason over which the employee has no control. Unavoidable absence will not however, include absence to attend a wedding or similar function or absence over which he has controlled. Sickness should be covered by a specific service from the Railway Medical Officer.

The provision contained in para 223 is general in nature and would apply even to a case of selection/suitability of which ^{is} judged on the basis of written test and in accordance with para 188 and 189 of I.R.E.M. Sri Shesh Narain, Pravara Khalasi could not appear in the written test the result of which was declared on 19.02.2003 because of the administrative failure to relieve him in appearing for the written test. It is true that sub clause (b) of clause I of para 223 speaks of interview but it is implicit in ~~XXX~~ clause III that supplementary test may be held even in a case ^{where} ~~whether~~ a candidate could not appear in the written test due to the administrative failure to relieve him in time. Supplementary test, ^{it} would appear from clause III of para 223 of I.R.E.M, is held in order to cater to the needs of absentees ^{where} due to sickness, non-intimation/late intimation of dates of test etc. The DRM had in fact ^{passed it} by ~~passing~~ order dated 22.04.2003 (Annexure RA-2) for holding supplementary examination in exercise of powers of para 223 of IREM. This was also done in respect of 33 1/3% departmental quota for promotion of Group 'D' to Group 'C' post in the scale of Rs. 3050-4590/-.

3. In view of the above discussions the O.A succeeds and ^{the O.A dated 13.4.2003 is set aside} is allowed. ^{it} The respondents are directed to hold supplementary test with a view to enabling Sri Shesh Narain to appear in the supplementary test. No costs.


Member- A.


Vice-Chairman.

/Anand/