

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 21st day of October 2010

Original Application No. 988 of 2003

Hon'ble Dr. K.B.S. Rajan, Member (J)
Hon'ble Mrs. Manjulika Gautam, Member (A)

Smt. Sunila Yadad, W/o Shri Suresh Chand, R/o 51 A, Minot Road,
Allahabad-1.

..... Applicant

By Adv: Sri Sudama Ram

VERSUS

1. Union of India through the General Manager, Diesel Locomotive Works, Varanasi.
2. Chief Personnel Officer, Diesel Locomotive Works, Varanasi.
3. Shri Shiv Kumar Singh, S/o Late B.P. Singh, Employee No. 03987 R/o Rly. Quarter No. 340-A, Diesel Rly., Karkhana Colony, Varanasi.
4. Shri R.K. Gupta Mukhya Raj Bhasa Adhikari/(CPO)/Diesel Locomotive Works, Varanasi.

..... Respondents

By Adv: Sri A.K. Pandey, Sri A.K. Sinha and Smt. A. Burman

ORDER

Delivered by Hon'ble Dr. K.B.S. Rajan, Member (J)

Brief facts : For the post of Rajbhasha Adhikshak in the grade of Rs. 6500-10500 against general quota, Annexure A-1 notification dated 3rd July, 2003 was issued and three persons including the applicant herein and respondent No. 3 were called for. Respondent No. 3 was however, kept in the waiting list. The notification also included the syllabus for the written examination. The examination was held on 24.7.2003 and the applicant found that the question paper was not conforming to the prescribed syllabus in as much as there was no question of Hindi essay and the ratio of objective



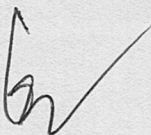
questions was also not as per the prescribed syllabus. The applicant, soon after the examination preferred a representation dated 06.08.2003 vide Annexure A-2. In the result declared by the respondents, it was respondent No. 3 who was declared to have passed the written exam and was accordingly called for viva-voce. The applicant has made a complaint that some mal-practice had taken place for illegal gratification and the question paper was need to respondent no. 3 in advance. The applicant has filed this O.A. asking for the following relief:-

- "a. ISSUE an order or direction setting aside the written test held on 24.07.2003 in pursuance of notification dated 03.07.2003 and direct the respondents to hold a fresh written test after setting a fresh question paper according to the syllabus prescribed vide Annexure -Ka to the said notification dated 3-7-2003;**
- b. PASS such other or further order as this Hon'ble court may deem fit and proper in the circumstances of the case;**
- c. AWARD cost to the applicant as against the respondents.**
- d. Pas an order or direction to set aside the letter dated 2-9-2003 being illegal, perverse and malafide already annexed as Annexure CA-3 to the counter reply filed on behalf o Respondents No. 1 and 2."**

2. Official respondents have contested the O.A. according to them the post in question was a selection post and not promotional and the selection was to be made by a written test and viva-voce the so called illegality in setting the question paper as regard the alleged illegal gratification, respondents emphatically denied that the question paper was ever leaked to respondents No. 3 on any illegal gratification.

3. Applicant has filed her rejoinder and contended that the whole selection smacks of malified and undue favour. All the contention raised in the O.A. have been reiterated.

4. Respondent No. 4 who was impleaded in his personal capacity with particular reference to para 4.14 where in the alleged illegal gratification was referred to, has filed a separate counter containing



that there is neither any illegality nor was there any malpractice in conducting the selection. Applicant has filed a rejoinder to this counter as well maintaining the self same complaint that the question paper was not set according to syllabus.

5. Counsel for the applicant argued that the records would show as to how the official respondents have favoured Respondent No. 3. The question paper is not in accordance with the syllabus; when the syllabus indicated essay in Hindi, no such essay was asked in the question paper. The objective type questions also were not of the same ratio and thus the selection was far from impartiality.

6. Counsel for the respondents submitted that the purpose of holding written test is to test the ability of the candidates in Hindi language. It is not compulsory that only essays should be asked to test the proficiency in language. Similarly, the ratio of the objective type questions also cannot be inflexible.

7. Arguments were heard and documents perused. The syllabus contained in Annexure A-1 notification reads as under :-

अनुबन्ध 'क'

राजभाषा अधीक्षक वेतनमान रू० 6500-10500 पद हेतु निखित परीक्षा का "पाठक्रम"

1. अभ्यर्थियों से सामान्य अनुवाद की क्षमता के साथ तकनीकी दस्तावेज को अंग्रेजी से हिन्दी एवं हिन्दी से अंग्रेजी भाषा में अनुवाद की क्षमता वाछनीय है। एतद् संहिता (कोड) मैनुअल आदि के उद्धरण की जानकारी।

2. अभ्यर्थियों के सामान्य ज्ञान के जॉच के लिए समकालीन विषय के साथ साथ रेलवे कार्य से सम्बन्धित ज्ञान की जानकारी।

3. निबन्ध आदि का प्रकरण ऐसा होना चाहिए जिससे कि अभ्यर्थियों की हिन्दी अभिव्यक्ति की क्षमता की जॉच किया जा सके। अभ्यर्थियों से भारत की सांस्कृतिक धरोहर तथा रेलवे की दिन प्रति दिन की कार्य पद्धति की वॉछित जानकारी का ज्ञान।

4. राजभाषा अधिनियम एवं नियमों की जानकारी।

8. Through the word "essay etc." figured in, in the syllabus, the spinal thrust is to test the depth of knowledge in Hindi of the candidates. If this is achieved even without an essay, the question paper can meet the requirement as per the syllabus.

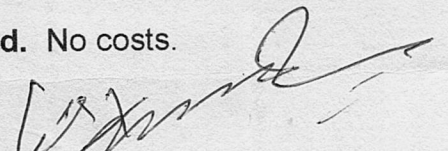
9. As regards objective types also it is seen from the record that 16 objective type questions have been asked carrying negative marks. Of course, there has been some change in the valuation of objective type question but the same does not change drastically the marks obtained by the candidates substantially.

10. It is also seen from the record that the representation of the applicant has also been considered.

11. The mark obtained by the applicant in the written test is 14.53 out of 35 while that obtained by the selected candidate is 26.39. So far as marks for seniority is concerned the applicant has been granted as many as 15 marks while the selected candidates, only 5 marks. The total marks obtained by the selected candidate is found to be more than that obtained by the applicant even with the difference of 10 marks in seniority.

12. Thus, we are not able to discern any illegality or irregularity in the selection conducted. As such we have no option but to reject this O.A. We order accordingly. **O.A. is dismissed.** No costs.


(Mrs. Manjulika Gautam)
Member-A


(Dr. K.B.S. Rajan)
Member-J

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