

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 23 OF 1990~~198~~
~~EX-NO~~

DATE OF DECISION 15-2-1991

Mr. Mahesh N. Tiwari & Ors. Petitioners

Mr. R.K. Mishra Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent(s)

Mr. N.S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

1. Mahesh N. Tiwari,
2. B.G. Pradhan,
3. Awatrali H. Tahalramani,
All C/o. Shri Mahesh N. Tiwari,
B/5, Shakti Apartments,
Suryanagar, Jawahar Chowk,
Maninagar, Ahmedabad. Petitioners.

(Advocate: Mr. R.K. Mishra)

Versus.

1. Union of India
(Notice to be served through
Chairman, Indian Railways,
Rail Bhavan, New Delhi).
2. General Manager,
Western Railway,
Churchgate, Bombay.
3. Divisional Rly. Manager(Estt),
Western Railway, Pratapnagar,
Baroda.
4. Area Manager,
Western Rly, Ahmedabad Rly. Station,
(Through Shri P.C. Wadhawa and/or
his successor) Kalupur,
Ahmedabad. Respondents.

(Advocate: Mr. N.S. Shevde)

J U D G M E N T

O.A.No. 23 OF 1990

Date: 15-2-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The issue that arises for our decision in this original application filed under section 19 of the Administrative Tribunals Act, 1985, is whether an inservice promotion test paper did not conform to the rules.

2. The three applicant railway employees sat for the promotion test for the post of Head T.C./TNCR/Head TTE on 11.3.1989. A question paper of

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100 marks was required to be answered. The applicants allege that the question paper is contrary to the Railway Board's instruction in letter No. E(NG) I-83-PNI-65(PNM/NFIR) dated 17.4.1984 which requires that 50% of the total marks of the paper should be for narrative test questions and the remaining for objective. The applicants allege that the question paper was all of narrative nature rendering the examination illegal, arbitrary and violative of the orders and consequently the result is liable to be declared as not valid. The result of the examination conducted on 11.3.1989 was declared on 9.11.1989 against which the applicants claim to have vainly represented to the Divisional Railway Manager(E) Western Railway, Baroda in the month of December, 1989.

3. The result shows that out of 126 candidates who sat for the examination, 105 have been declared successful.

4. Though the applicants' principal objection is to the nature of the question, it is also averred that the respondents did not correctly assess the number of vacancies to be filled and also that the authorities failed to declare the result within six months as required by the rules.

5. The respondents deny that the paper set was completely of narrative nature. They aver that the instructions regarding 50% of the marks

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for objective type questions and 50% for narrative/ descriptive type of question is not an inflexible rule. It is further their say that question no. 1 & 2 and part of question no.5 only are of narrative type and question no.3, 4 and part of question no.5 are objective type. Question no.6 is compulsory.

6. The 17.4.1984 instructions, supra, say that "the figure of 50% for objective type question and 50% for narrative type question" is intended to be for guidance only and does not constitute an inflexible percentage". In view of the flexibility permitted by the instruction, question arises whether the paper is completely devoid of objective test component or, in the alternative, is devoid of the same to an unreasonable extent.

7. No instruction regarding what type of questions are to be considered as objective and what type as narrative have been placed before us. Both the learned counsel, to our specific question regarding what is a narrative question and what is an objective question and whether any instructions on this subject exist, could not enlighten us. Also, copies of past question papers have not been enclosed to help illustrate respective averments and arguments.

8. In the above situation we tried to seek information on the subject from the book 'Schaum's Outline of Test Items in Education' by George J. Mouly, and Lewis E. Walton, Professors of Education University of Miami, published by Schaum Publishing Co., 275 Park Avenue South, New York 10. In this publication, on page 205 Chapter 3 B under the title

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'Kinds of Tests' figure objective and essay tests standardized and informal tests and other classifications. There is also a set of probable answers to the question what is an objective test. These are reproduced below:

An objective test is one

- a. for which definite norms have been established on the basis of which to evaluate student performance objectively
- b. in which teacher judgment in the construction of the test is eliminated
- c. on which equally adequate answers get the same rating
- d. whose items reflect directly upon the objectives of the course
- e. which makes a systematic (valid) coverage of the objectives of the course

The answer to this is given on page 280 and answer 'C' is mentioned as correct. Thus objective test is one on which equally adequate answers get the same rating. On this understanding of objective test, we find it difficult to agree with Mr. Mishra's contention that the question paper is completely devoid of objective questions or that the same is no devoid ^{of the same} to an unreasonable extent. Question No.3 is about articles not accepted for booking as luggage and question No.4 is about cases where section 113 and Section 112 are applicable. Answer to question no.3 is thus to consist of naming the articles and answer to question No.4 to consist of naming the cases. To the answers so given, equally adequate answers getting the same rating seems possible. We are also of the view that the first part of question No.5, namely "what types of frauds you notice in

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booking of passenger reservation", meets the test of objective question.

9. It may be that an impression exists that a question paper which has questions on the left side of the paper and several answers including the correct answer listed on the right side of the paper and the examinee expected to tick the correct answer is alone an objective question paper. This may be an oversimplified understanding of an objective type test paper. Objective type questions can be framed in several forms like for examples short answer form, true - false form, multiple choice form, matching form. But the test lies in whether the questions are such as admit of equally adequate answers to them getting the same rating.

10. Mr. R.K. Mishra relied on B.S. Minhas V/s. Indian Statistical Institute, AIR 1984 S.C. 363, where the subject matter was challenge to the appointment of a respondent to the post of Director of the Indian Statistical Institute and issues like suitability of the petitioner vis-a-vis the person appointed and the constitution of the selection committee in the light of the bye-laws. There is no dispute that the rules as framed are required to be followed by the authority framing. However, as would be seen from our above analysis, in this case the applicant has not established that the rule framed has not been followed at all. The rule provides for flexibility and about 37 marks out of a total of 100 marks devoted to objective type questions is reasonable percentage.

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11. Apart from the above, when the same question paper is answered by all the candidates who sat for the examination without any protest at the time of examination and so high a number as 105 out of 126 who sat for the examination declared successful, it is too far-fetched for the applicants ^{to} pray that the examination and the result should be quashed without even impleading the successful candidates as party respondents.

12. In view of the above, the application is liable to be dismissed. We hereby do so. There is no orders as to costs.

Resd.

(R.C. BHATT)
Judicial Member

M. M. S.
(M.M. SINGH)
Administrative Member

O.A./23/90
with
M.A./191/90

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Present : Counsel for the parties.

29.6.1990

M.A./191/90

The present M.A. not opposed and hence allowed.

O.A./23/90

Reply within 3 weeks with advance copy to the counsel for the applicant, no further opportunity will be allowed. Rejoinder within 2 weeks thereof with advance copy to the counsel for the respondents. To come up for completion of pleadings before Deputy Registrar on 16.8.1990 and thereafter to be listed for arguments on admission.

M. M. Singh

(M M Singh)
Administrative Member


(S K Jain)
Judicial Member

*Mogera