

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 1397 of 1996 with
M.A. No. 255 of 1997

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman
Hon'ble Mr. M.S. Mukherjee, Administrative Member

1. Mridul Kamar, s/o late Anil Kumar Kamar, residing at 61/C, Railway Quarter, Kankulia Road, Calcutta-29, working as Peon in the office of RPF/Chief Security Commissioner Office, Eastern Railway, Calcutta ;
2. Krishna Kishore Mondal, residing at RPF Camp, Narkeldanga, Calcutta, working as Peon in RPF/Chief Security Commissioner's Office, Eastern Railway, Calcutta ;
3. Animesh Roy, s/o Late Sudhir Kumar Roy, residing at Vill & P.O. - Aulpur (Sarpara), Dist. Hooghly working as Peon in the Chief Security Commissioner's Office/RPF, Eastern Railway, Calcutta ;
4. Sri Prosanta Mazumdar, s/o Late Karali-kinkar Mazumdar, residing at Vill:Sonarunda, P.O.;
5. Anup Kumar Chattopadhyay, C/o Gobardhan Chattopadhyay residing at P.O. & Vill: Sure-kalna, Dist. Burdwan, working as Peon in the Chief Security Commissioner's Office/RPF, Eastern Railway, Calcutta ;
6. Tapas Ghosh, residing at 1/1, Chatra Dutta-para Lane, P.O. Serampore, Dist. Hooghly, working as Junior Peon in the Chief Security Commissioner's Office/RPF, Eastern Railway, Calcutta.

.... Applicants

-Versus-

1. Union of India, service through the General Manager, Eastern Railway, 17, N.S.Road, Fairlie Place, Calcutta-1 ;
2. Chief Personnel Officer (IR), Eastern Railway, 17, N.S. Road, Fairlie Place, Calcutta-1 ;
3. Chief Security Commissioner, Railway Protection Force, Eastern Railway, New Koilaghat Building, 14, Strand Road, 3rd Floor, Cal-1 ;
4. Sr. Divisional Security Commissioner, Railway Protection Force, Howrah-1, Eastern Rly. ;

.... Official respondents

5. Chittaranjan Sarkar, s/o Late Netai Ch. Sarkar, P.O. Goribpur, Dist. North 24-Parg., working as Jamadar-Peon ;

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6. Puran Kumar Rai, s/o Shri Ram Singh Rai,
Daspara, P.O. Liluah, Dist. Howrah ;
7. Jaydave Bagui, s/o Late Jamini Bagui,
Vill. Barakalipara, P.O. Ghargojal, Dist.
Hooghly, working as Jamadar-Peon ;
8. Tulsi Das, s/o Late Haresh Ch. Das, 20,
Chakpura Manasapally, P.O. Bhattanagar,
Liluah, Dist. Howrah ;
9. Kishorilal Mondal, s/o Late Ram Chandra
Mondal, P.O. & Vill. Bhadurpur, Dist. Bhagal-
pur - 813 210 ;
10. Gayom Maya Gurusini, d/o Late Mangla
Gurung, Bamangachi Railway Station Qtr. No. 90/8,
P.O. Bamangachi, Dist. Howrah.

..... Added
respondents

For applicants : Mr. B.C. Sinha, counsel
Mr. P.G. Das, counsel

For Eastern Rly. : Mr. P.K. Arora, counsel
(R.P.F.P)

For Added Respondents : Mr. S.K. Ghosh, counsel

Heard on : 11.6.97, 20.6.97 : Order on : 10.9.1997

and 25.6.97 _____

O R D E R

A.K. Chatterjee, VC

These six petitioners working as Peon in the office of the Chief Security Commissioner/RPF, Eastern Railway, Calcutta had appeared in a written test held on 2.4.96 for selection for empanelment for promotion to the post of Office Clerk - Gr.II in the Security Department and qualified for viva-voce test, which, however, was never held and ultimately, the written examination was cancelled by an order dated 19.11.96 purportedly on the ground that the question paper of Part-A was set not in conformity with the provision of Srl. No. 5141 of Eastern Railway dated 18.1.63. The petitioners have filed this application challenging the cancellation, inter alia, on the ground that the said Serial was already modified by the

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Board by its letter dated 13.10.87 circulated by C.P.O. under his letter dated 16.11.87. As such, they have prayed for setting aside the order of cancellation and for a direction upon the respondents to call the petitioners to a viva-voce test.

2. The authorities have filed a reply, inter alia, stating that the question paper of Part-A in the written examination was set in bilingual form i.e. both in English and Hindi, but it was later found that such form is permitted by Board's letter dated 13.10.87 only in case of examination held in offices located in Hindi Speaking Areas. Since the examination in question was held at Howrah, which was not a Hindi Speaking Area, the letter dated 13.10.87 had no application and accordingly, the examination was cancelled as the question paper in Part-A should have been set in English only as per Srl.No.5141 dated 18.1.63.

3. Another six candidates, who had also appeared in the written test but could not qualify had filed a Misc.Application being M.A. No. 255 of 1997 to intervene as respondents, which was allowed by an order dated dated 20.6.97, though no order was recorded formally disposing of the Misc.Application. These added respondents have also filed a reply stating, inter alia, that the examination was rightly cancelled as the question paper of Part-A being in bilingual form was inconsistent with Serial No.5141 dated 18.1.63.

4. We have heard the Ld.Counsel for the parties and perused the records before us.

5. The contention of the respondents as noted above is that the question paper had to be set as laid down in Srl.No.5141 dated 18.1.63 as the Railway Board's letter dt.13.10.87 had no application in this case for the reason that the place where the examination was held viz. Howrah was not a Hindi Speaking Area. The only

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question of fact namely that Howrah was a Hindi Speaking Area has not been controverted on behalf of the petitioners by filing a rejoinder. Once this posted is accepted, irresistible conclusion is that the provision of the Board's letter dt.13.10.87 requiring question of Part-A to be set in bilingual form is not attracted and consequently, the question had to be set only in English as laid down in Srl.No.5141 dt.18.1.63. Thus, it is found that even though the earlier order stood modified to certain extent by Board's letter dt.13.10.87, still in the facts of the present case, modification is not attracted and the examination should have been held in terms of the earlier Srl.5141 dt.18.1.63. Since it was not so held, the action taken by the authorities to cancel the examination cannot be disturbed.

6. The Ld.Counsel for the respondents has also stated that the Railway Protection Force being a part of the Armed Forces of the Union, this Tribunal has got no jurisdiction looking to the provision of Section 2(a) of the A.T. Act. To counter this argument, the Ld.Counsel for the petitioners has drawn our attention to the order delivered on 26.5.94 in R.A. 48 of 1994, which was filed for review of the order passed in O.A. 350 of 1994. That O.A. was filed by Naik of the Railway Protection Force, who was medically declassified and made the application for a direction upon the respondents to give him an alternative civil appointment. Certain direction in favour of the declassified Naik was passed in the O.A., which was sought to be reviewed by the railway authorities by making the aforesaid review application on the ground that the petitioners' designated as Naik in the R.P.F. could not approach this Tribunal as he was also a part of the Armed Forces of the Union. This contention and the review application were rejected and it is, therefore, urged on behalf of the present petitioners that the Railway Protection Force cannot be regarded as a part of the Armed Forces of the

Union. A perusal of the order delivered in the R.A. would disclose that the finding was that since the petitioner of that case was medically decategorised and seeking an alternative appointment to a civil post, it could not be said that the application related to the service matter of R.P.F. staff. Thus, there was no finding whether the R.P.F. was part of the Armed Forces of Union or not. On the other hand, the Ld. Counsel for the respondents has cited a decision of this Bench in Bholanath Sen vs. Union of India & Ors., 1991(1) S.L.R. 339, in which it was held that the Tribunal has no jurisdiction u/s.2(a) of the A.T. Act over R.P.F. personnel. However, it is not necessary to enter into this question in detail as it has already been found that no interference with the order of cancellation of the written examination in question is called for in the facts and circumstances of the present case.

7. The O.A. is accordingly dismissed. The M.A. also stands dismissed. No order is made as to costs.


10/9/97
(Mr. S. Mukherjee)
Member (A)


10/9/97
(A.K. Chatterjee)
Vice-Chairman