

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

D.A. No. 43 of 1996.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.
HON'BLE MR. PARITOSH DUTTA, JUDICIAL MEMBER.

SWAPAN KR. NATH & ORS.

VS.

UNION OF INDIA & ORS. (E.Rly)

For Applicants : Mr. T.N. Bandopadhyaya, Sr. Counsel leading
Mr. S.K. Dutta, Counsel & Mr. T.K. Biswas, Counsel.
For Respondents : Mr. M.M. Mullick, Counsel.

Heard on : 22.1.96.

Ordered on : 22.1.1996.

O R D E R

B.C.Sarma, AM.

1. Eight applicants have jointly filed this application with the prayer that ~~the~~ an Order be issued on the respondents quashing and/or setting aside the Order dated 29.11.95 (Annexure 'A-4) to the application) and the respondents railway be directed to hold Viva-Voce test on the basis of the Written examination held on 29.4.95 and 30.4.95 which was a limited departmental competitive examination for formation of Group 'B' panel of Assistant Engineers ~~(XXXXXX XXXXX)~~ against 30% quota in the Civil Engineering Department. The applicants contend^{written} that they had~~e~~ appeared in the examination and came out successful and result of the written examination was also published by the respondents. However, for certain unknown reasons, the examination has been cancelled and the department has now decided to hold another written examination. Being aggrieved thereby, the instant application has been filed with the prayer mentioned hereinbefore.

Contd...p/2.

2. Mr. Mullick, 1d. Counsel appearing for the respondents-railway submits that after the written examination was held on 29.4.95 and 30.4.95, certain complaints were received by the respondents-railway. Therefore, the enquiry in those complaints was entrusted to the Vigilance department of the railways and, after getting the report from the vigilance department, the General Manager has decided to cancel the said examinations. Therefore, Mr. Mullick submits that there is no merit in the application, which deserves to be dismissed.

3. As directed by us on 16.1.1996, the respondents have produced before us the relevant file. The file does not have any file-cover and there is no number indicated as number of the file. However, there is a sheet on the first page and it states ~~xx~~ against "Case Number and Date" of filing as : " G157/1/95-Engg/GAZ/9(VC)". We have perused this file and we find that, after the written examination result was out and before the Viva-Voce could be fixed, complaints were received alleging mal-practices in ~~xx~~ evaluation and Representations were also received from four candidates requesting review of their answer scripts and rectification of possible mistakes in evaluation/tabulation/totalling. The enquiry was conducted by the vigilance department and it appeared that there was erroneous marking in General Knowledge portion ~~xx~~ and lenient marking in one numerical question the candidates who should have otherwise failed ^{secured} qualifying marks in Paper-I. Erroneous marking has been done in respect of several other candidates also in Paper-I though this has not affected their status as they would ^{have} ~~not~~ qualified for viva-voce even if marking was correctly done. It also appears that the examiner of Paper-I has admitted his error in evaluation of General Knowledge portion and lenient marking in one numerical question. It is, therefore, abundantly clear that there was no complaint of malpractice at all allegedly adopted by any ~~xx~~ of the candidates in the examination but it is

Contd...P/3.



a pity that the malpractice has been allegedly proved on inquiry (and also admitted to be correct accordingly by one of the examiners) in respect of the examiners of the written examination. The note of the C.V.O(Engg), which was also submitted through the SDGM (Senior Deputy General Manager), was approved by the General Manager on 23.11.95 and it was ordered that re-examination be resorted to and selection be cancelled. We would like to observe that this is a second instance that has come to our notice that the examiners and not the examinees have resorted to malpractice in the matter of examination and selection. When the first malpractice was resorted to by certain officials of the Railway Recruitment Board, a plethora of litigations came before this Tribunal and that had taken unnecessarily a lot of time both of the litigant public who approached this Tribunal but also the members of the bar. In the second instance, we find that a same type of malpractice has resorted to and it appears that this malpractice is deliberate. We are, therefore, of the view that there is sufficient justification of considering suitable disciplinary action against those officers who have allegedly found delinquent in the matter of wrong evaluation of answer scripts. Such malpractice not only turnishes the image of the railway administration but also puts even the successful candidates into harassment; after all, the candidates have ^{to} knocked the door of this Tribunal for justice. We, therefore, strongly recommend to the Railway Board that responsibility be fixed on the erring officials and they may consider drawing up of disciplinary proceeding against them for bringing them to justice. As to the merit of the application, we find that there is nothing wrong on the part of the examinees since no irregularity was committed by them; the only irregularity was wrong evaluation of answer scripts. Therefore, we do not find any justification for cancellation of Written Examination in which the instant applicants along with others appeared


Contd....P/4.

We are, therefore, of the view that the Order dated 29th November, 1995 passed by the respondents-railway cancelling the Written Examination held on 29.4.95 and 30.4.95 in respect of selection of Asstt. Engineers through 30% quota is liable to be quashed and set aside.

4. In the result, the application is disposed of at the stage of admission hearing. The said Order dated 29th November, 1995 as set out at Annexure 'A-4' to the application is hereby ~~quashed~~ ^{quashed} ~~cancelled~~ and set aside. The written examination held on 29.4.95 and 30.4.95 stands valid. The only action the railway is to take now is to get those Papers re-evaluated by a carefully selected panel of Examiners, obviously, excepting those who have already examined those Papers and on the basis of such revised evaluation of answer scripts, the respondents railway shall also hold Viva-Voce examination and also conclude the selection. If it is considered necessary, we give liberty to the General Manager, Eastern Railway, to approach the General Manager of some other sister railway zone for selection of Examiners for this purpose. The above action shall be taken by the railway-respondents as early as possible and further action regarding holding of similar examination shall be taken only on completion of the result of the present selection. A copy of this Judgement shall be separately sent to the Chairman, Railway Board and also the General Manager, Eastern Railway for necessary action. We pass no Order as to costs.

Paritosh ~~dkd~~

(P. Dutta)
Member (J)



(B.C. Sarma)
Member (A)