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**Central Administrative Tribunal
Jodhpur Bench: Jodhpur.**

Date of order: 20.9.2005

Mr. A.K. Khatri : Counsel for the applicants in
O.A No. 253/2005
Mr. J K Mishra & : Counsel for the applicants in
Mr. B Khan : O.A No. 259/2005.
Mr. P.R. Singh : Counsel for the applicants in O.A. No.
260/2005

Mr. Salil Traivedi : Counsel for the official respondents in
All the three O.As.

None Present for R. 5 in O.A. No. 253/2005.

In these three OAs No. 253/2005, 259/2005 and 260/2005 common facts and question of law is involved. Keeping in view the urgency, I have heard the arguments on interim relief and the prayer for interim relief are being disposed by a single order. The learned counsel has advanced elaborate arguments.

The brief facts are that the applicants in these cases appeared in selection tests consisting of written test only for empanelment for promotion to the post of Pass Guards scale Rs 5000-8000, Station Master scale Rs. 6500-10500 and Station Supdt scale Rs. 7450-11500, respectively, held in the month of Feb 2005. All of them have passed in the same and the result was declared in May/June 2005. After a period of about one month, some complaints were made against the said tests, at the instance of failed candidates who became wiser only after having known their failure. The results of written tests have been cancelled and fresh notification issued for conducting the selection for the same posts.

There are three major irregularities that are the alleged as basis for cancellation of the aforesaid tests- namely 1. The question papers did not contain 50% objective marks, 2. there was no question relating to Rajbhasa carrying 10% of marks and 3. the question papers were not in bilingual i.e. Hindi and English as per rules in force.

For the purpose of interim relief, I waded through the relevant rules and tested the facts of these cases on the anvil of same. As far as the rule of 50% objective marks is concerned, the same is required to be followed in case of highest selection post and the same is not sacrosanct and can vary somewhat. Regarding the 2nd item, the question relating Rajbhasa, answering it is also optional. About the third point, all the candidates have been said to be having Hindi Medium and there is no complaint of any prejudice. In these circumstances, prima facie, the impugned action of the official respondents seems to be without any substratum.

Much stress was laid by the learned counsel for the respondents that all the posts in question belong to safety category and filling of the same is imperative so as to ensure efficient running of the trains. The posts involved have been lying vacant at least ever




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since March 2005 and the respondents have been managing the work without any interruption for over six months. These cases may be finalised within a period of two to three months. I am not able to persuade myself as to why they cannot wait for such a short period and avoid unnecessary implications. The balance of convenience is in favour of the applicants keeping in view the facts that there is no blame on them and failed candidates have hardly any legal right to challenge such selections. As regards the suffering of irreparable injury is concerned, the argument from the respondents side that no right of the applicants has been infringed, does not appeal to the reason in as much as the selection consisted of only written test and the impugned order tantamount to cancelling complete selection without any demur.

Keeping in view the peculiar facts and circumstances of this case, I consider it expedient that the respondents be restrained from proceeding further with the fresh selections to the posts in question till final disposal of these cases. Ordered accordingly. It is made clear that these cases are to be finally decided by a Division Bench of this Tribunal and the above observations shall not be construed as verdict on merits of these cases.

Incidentally, no Division Bench is functioning at Jodhpur at the present. Since the matter needs expeditious adjudication, the next date is not being fixed and the Registry shall list these cases before the Division Bench as and when the same is constituted; preferably on the 2nd day of sitting of such Division Bench after notifying the date to the learned counsel for all the parties.

Let the main copy of this order be placed in OA No. 253/2005 and its copy in other case files.


(J K Kaushik)
Judicial Member

Received copy of the order for 20/9/05
D. Hunt 20/9/05

3.
R. Lapp
27/9/05

Recd copy of order for 20/9/2005
O'Sins
(P.R. Sup 6)
AOW

Rlc Lamm
21/8/05