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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

ORIGINAL APPLICATION NO. 253, 259 and 260 of 2005

Date of Order: 27th January 2006

CORAM:

**HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN.
HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER.**

1. ORIGINAL APPLICATION NO. 253/2005

1. Hukam Chand Meena S/o Shri Duli Chand Meena, age 46 years, Senior Goods Guard R/o Jodhpur, presently working in the office of Station Superintendent, North-Western Railway, Jodhpur.
2. Rajpal Upadhyay S/o Shri Khayali Ram Upadhyay, age 50 years, Senior Goods Guar, R/o Jodhpur, presently working in the office of Station Superintendent, North-Western Railway, Merta Road.
3. Goma Ram Choudhary S/o Shri Jag Ram, age 42 years.
4. Suhbhash Chandra Srivastava S/o Shri Sunder Lal, age 50 years.
5. Suresh Kumar Yadav S/o Shri Banshi Lal Yadav, age 44 years.
6. Narpat Singh S/o Shri Heer Singh, age 38 years.
7. Mangal Singh Hada S/o Shri Ghamandu Singh, age 43 years.
8. Gopal Krishna Ujjawal S/o Shri Jas Karan Ujjawal, age 39 years.
9. Chigna Ram S/o Shri Mangu Ram, age 39 years.
10. Bhabhoota Ram S/o Shri Chauga Lal, age 37 years.
11. Mohd. Iqbal S/o Shri Gaffur Khan, age 41 years.
12. Chiman Lal S/o Shri Hazari Ram, age 56 years.
13. Ravikant Meena S/o Shri Baldeo Singh, age 46 years.
14. Gopal Chouhan S/o Shri Laxmanji, age 45 years.
15. Dharmendra S/o Shri Rawta Ram, age 31 years.

All above applicants No. 3 to 15 are resident of Jodhpur and presently working on the post of Sr. Goods Guard in the office of Station Superintendent, North-Western Railway, Jodhpur.

(Mr. A.K. Khatri, Counsel for the applicants.)

VERSUS

1. Union of India, through the General Manager, North-Western Railway, Jaipur.
2. The Divisional Railway Manager, North-Western Railway, Jodhpur.
3. The Senior Divisional Personnel Officer, North-Western Railway, Jodhpur.
4. The Senior Divisional Operating Manager, North-Western Railway, Jodhpur.
5. The President, North-Western Railway Employee Union, Jodhpur.

....Respondents.

(Mr. Salil Trivedi, Counsel for the respondent Nos (1 to 4)
Mr. Vijay Mehta, Counsel for the respondent No. 5.
None present for respondent No. 6.)



2. ORIGINAL APPLICATION NO. 259/2005

1. Kishor Singh Shekhawat S/o Shri Hanuman Singh Shekhawat aged about 49 years, at present working/employee on the post of RG Station Master under Station Master Jetha Chandan Distt-Jaisalmer, North West Railway.
2. Shyam Sunder Vyas S/o Shri Ram Chandra Vyas aged about 53 years, at present working/employee on the post of RG Station Master BUT under Station Master Bayatu Distt-Barmer, North West Railway.
3. Mahipal Singh Shekahwat S/o Shri Udai Singh Shekhaswat aged about 49 years, at present working/employee on the post of Station Master RKB under SS. Raikabagh Palace Distt-Jodhpur, North West Railway.
4. Om Dut Harsh S/o Shri Shambhu Dutt Harsh aged about 50 years, at present working/employee on the post of Asst. Station Master/JU under SS Jodhpur, North West Railway.
5. Manohar Lal Meena S/o Shri Pura Ram Meena aged about 41 years, at present working/employee on the post of Asst. Station Master/MKN under SS. Makrana Distt.-Nagaur, North West Railway.
6. Sunil Davera S/o Shri Sohan Lal Davera aged about 45 years, at present working/employee on the post of Asst. Station Master/JU under SS Jodhpur, North West Railway.
7. Hemant Sharma S/o Shri Om Prakash Sharma aged about 42 years, at present working/employee on the post of Asst. Station Master/JU under SS Jodhpur, North West Railway.
8. Vinay Kumar Agarwal S/o Shri Parmatma Saran, aged about 41 years, at present working/employed on the post of Asst. St. Master/RKB under SS Raikabagh Palace, North West Railway.
- 9 Chetan Das S/o Shri Tulsi Das aged about 44 years, at present working/employee on the post of Asst. Station Master/JU under SS Jodhpur, North West Railway.

(Mr. J.K. Mishra, Counsel for the applicants.)

VERSUS

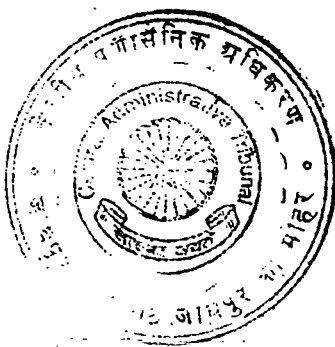
1. Union of India, through the General Manager, North-West Railway, Jaipur.
2. The Divisional Railway Manager, Jodhpur Divisional Jodhpur N/W, Railway.
3. Sr. Divisional Personnel Officer, North West Railway, Jodhpur, Divisional Jodhpur.

....Respondents.

(Mr. Salil Trivedi, Counsel for the respondent Nos (1 to 3)
Mr. Girish Joshi, Counsel for Shri Ram Ratan, intervener.

3. ORIGINAL APPLICATION NO. 260/2005

1. R.K. Ojha S/o Shri S.D. Ojha, R/o Plot No. 88 Mahadev Nagar, Mandore, Jodhpur, at present posted as CCW/SM, Cash Office, N.W. Railway, Jodhpur.
2. Lalit Kujoor R/o Railway Quarters Jari, Banas Kata, at present posted as Station Master Jari, N.W. Railway, Jodhpur.



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3. R.P. Lal S/o late Shri Narsingh Lal, R/o 899, II D Road, Sardarpura, Jodhpur. at present posted as Station Master, Bhagat ki Kohi, N.W. Railway, Jodhpur.
 4. A.K. Shrivastav S/o late Shri R.B. Sahai, R/o near Navodaya Hotel, Mandore, Jodhpur. At present posted as S.M./Instructor, D.T.T.S., Jodhpur, N.W. Railway, Jodhpur.
 5. Diwakar Prasad Dwiwedi S/o Shri Shiv Managal Dwiwedi, R/o 25 E 25, Chopasani Housing Board, Jodhpur. At present posted as Station Master, Jodhpur, N.W. Railway, Jodhpur.
 6. Sarvesh Kumar Lal S/o Shri Subedar Lal, R/o 18/240, Chopasani Housing Board, Jodhpur. At present posted as S.M./Instructor D.T.T.S. Jodhpur, N.W. Railway, Jodhpur.
 7. Bhim Singh S/o Shri Shera Ram, R/o Baipura, Merta Road, Dist.-Nagaur. At present posted as Station Master Balotra, N.W. Railway, Jodhpur.
 8. Gopal Swaroop Kulshresth S/o Shri Daya Swaroop Kulshresth, R/o Q.No. T/2, Railway Colony, Bomadra, Pali-Marwar. At present posted as Station Master Bomadara, N.W. Railway, Jodhpur.

...Applicants.

(Mr. P R Singh, Counsel for the applicants.)

VERSUS

1. Union of India, through the General Manager, North Western Railway, Head Quarter, Jaipur.
2. The Divisional Railway Manager, Jodhpur Division, North Western Railway, Jodhpur.
3. The Senior Divisional Personnel Officer, Jodhpur Division, North Western Railway, Jodhpur.
4. The Senior Divisional Operating Manager, Jodhpur Division, North Western Railway, Jodhpur.

....Respondents.

(Mr. Salil Trivedi, Counsel for the respondent Nos (1 to 4).)

ORDER

(Per Hon'ble Mr. J.K. Kaushik, Judicial Member)

Shri Hukam Chand Meena and 14 others, Kishore Singh and 8 others and R.K. Ojha and 8 others have filed O.A. Nos. 253/2005, 259/2005 and 260/2005, respectively, under Sec. 19 of the Administrative Tribunals Act, 1985. Common questions of facts and law are involved in all these OAs and hence, these are being decided through a common order.



2. We have heard elaborate arguments advanced at the bar by the learned counsel representing the contesting parties. We have

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earnestly considered the pleadings as well the records of these cases. The official respondents have been fair enough to make available the relevant selection files for our perusal.

3. Skipping up the variances in facts, the indubitable material facts necessitating filing of these O.AS indicate that separate selections for the post of Passenger Guard in the pay scale of Rs. 5000-8000, Station Superintendent in the pay scale of Rs. 7450-11500 and the Station Masters in the pay scale of Rs. 6500-10500, were conducted by the official respondents on various dates during the year 2005. All these posts are to be filled on the basis of selection consisting of written test only as per para 219(g) of IREM Vol. I. All the applicants in O.A No. 253/2005 appeared for the post of Passenger Guard and they have qualified in the written test and became eligible for paper scrutiny vide Annex. A/3. Similarly the applicants in O.A. No. 260/2005 were declared successful in the written test and became eligible for paper scrutiny for selection to the post of Station Superintendent vide Annex. A/3 dated 18.05.2005. The applicants in O.A. No. 259/2005 became eligible for paper scrutiny for selection to the post of Station Master after passing the requisite written test vide Annex. A/3 dated 18.05.2005. Subsequently the results of the said written tests have been ordered to be cancelled vide order dated 23.08.2005 (Annex. A/1) in these OAs. The reason for cancellation of the results is that necessary conditions enunciated in the Railway Board Circulars dated 07.08.2003 and 03.11.88 have not been fulfilled. In these OAs the said cancellation orders have been assailed on multiple grounds as mentioned in para 5 and its sub paras. The pleadings are complete. We propose to deal with the various grounds



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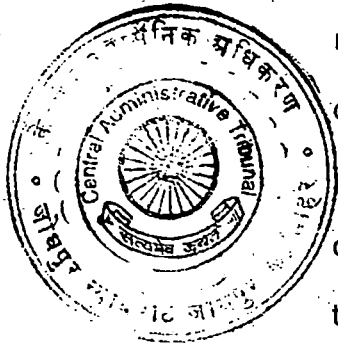
that are stressed by the learned counsel for the applicants at the time of hearing of these cases in the later part of this order.

4. As regards the variances in the facts, it has been averred by the respondents in the reply that the question papers set up for the written test were not in accordance with the circulars issued by the Railway Board in as much as objective type questions were not incorporated in the question papers. There was no question relating to Rajbasha. Questions papers in bilingual language were not there. Certain complaints were received against the setting up of the question papers prior to the finalisation of the selection. It was considered essential to examine the complaints before finalising the selection and it was found that certain irregularities were committed due to which written tests were cancelled vide impugned orders. The provisions contained in RBE No. 137/2003 as well as provisions contained in Railway Board circular dated 03.11.88 were violated. The reasons for cancellation have been indicated in the impugned orders. It has also been averred that the final panel was not approved and the written examination was duly cancelled by the competent authority before issuance of the panel. Subsequently fresh notifications came to be issued for holding the selections afresh. However, vide the interim order dated 20.09.2005, the respondents were restrained from proceeding further with the proposed selection, which was challenged before the Hon'ble High Court of Rajasthan in D.B. (civil) Writ Petition no. 7274/2005 and the Hon'ble High Court of Rajasthan vide order dated 02.01.2006 declined to interfere with the interim order.



5. Exhaustive arguments on behalf of the applicants were advanced by Mr. A.K. Khatri, learned counsel for the applicants in the

O.A No. 253/2005. He has contended that there is no provision to cancel the result of the written test and the respondents have acted in mere prejudice of principles natural justice in as much as neither any hearing was given in the manner nor any specific reason had been indicated in the impugned orders. It is submitted that objective type questions in the written test were to the extent of 15% marks out of 35 marks, which comes about 42.5 %. The minor discrepancies of 2 or 3 marks would not have made any difference. He has made us to traverse through the contents of relevant circulars dated 07.08.2003 as well as 3.11.88. He has endeavour hard to demonstrate that there was no such violation of the relevant provisions so as to entail the cancellation of the results of the selection. He contended that all the candidates who appeared in the said examination have opted for Hindi Medium. When the question papers were in Hindi there was no violation of any rule regarding Rajbhasha. Otherwise also the examination could be cancelled on either of the conditions (i) option to Hindi medium is not allowed or (ii) the question papers are not made in bilingual form. In the instant case, since the option for Hindi Medium is allowed, there was no question of cancelling the examination. He has next contended that there was no complaint regarding the setting up of question papers, at least up the date of declaration of the result of the written test. In the absence of any protest from any one it has to be presumed that no one had any complaint. The failed candidates became wiser only after they came to know that they have not qualified in the written test. He has also contended that similar procedure has been adopted in the earlier selections also, but no such action has ever been considered expedient by the respondent authorities and the persons so selected had enjoyed their promotions without any interruption. The applicants in particular



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and the other successful candidates in general have been singled out and made as a scapegoat at the instance of some failed candidates. He has also submitted that the applicants are not aware of any inquiry or investigation, which is alleged to have been conducted on the basis of complaints, in as much as none of them was associated or called for any such inquiry. He has cited numerous decisions in support of the contentions raised on behalf of the applicants.

6. Mr. P R Singh the learned counsel for the applicants in O A No. 260/2005 R.K. Ojha and others has submitted that the question papers consisted of 42.5% marks and the objective type questions are to be asked as per the circular. He also submitted that on the basis of the result of the written test some of passed candidates were also deputed for undertaking the requisite training meant for the post of Station Superintendent. The cancellation of the written test is an after thought exercise undertaken at the behest of some of the failed candidates. The other arguments of Mr. Khatri were adopted by him. Shri Mishra, representing the applicants in O.A. No. 259/2005. contended that the station masters posts in grade of Rs. 6500-10500 is not a highest selection post and therefore the first part of the circular dated 07.08.2003, would have no application and it is the second part that will apply. In the instant case, 10 marks were awarded for objective type questions which comes about 28% of the total marks (sic 20%) and therefore the same is within the margin as provided in the second paragraph of the circular. The learned counsel adopted the other arguments advanced by Mr. Khatri.



7. The learned counsel for the official respondents vociferously submitted that only the result of the written test was declared and the

final panel was yet to be prepared. The written test had to be cancelled because of the irregularities committed in the conduct of the examinations in setting up of question papers as noticed above. He submitted that if the respondents have committed any irregularities in the past, they couldn't be compelled to perpetuate the same on the ground of infraction of Art. 14 of the Constitution of India since equality clause cannot be applied in negative way and one must establish an enforceable right. In the present case no right, least to say, vested right has accrued to the applicants. He has also submitted that the principle of natural justice is not required to be followed in cases when no legal right of an individual is infringed. He also made us to travel through the circulars, violation of which has been complained. He contended that when the complaint is made or by whom such complaint is made, is immaterial since such exercise to correct the mistake could be taken even suo motu by the competent authority. It was next contended that a detailed inquiry into the irregularities has been conducted and thereafter only the competent authority ordered for cancellation of the written examination. The cases of the applicants would not be prejudiced in case they have to appear again and their reluctance to appear in the selection again causes anxiety and doubt on their capabilities. Sending the incumbents for training, which is in fact a promotion course for the post of Station Superintendent, would not make any difference since it is a condition precedent for promoting a candidate to the said post. The impugned orders very much contain the reasons for cancellation of the examination and cannot be said to be a non speaking order. The position that the post of Station Master was not a highest selection post is not disputed. However, as regards the post of passenger guard in scale Rs. 5000-8000, the learned counsel for the official



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respondents was at pains to submit that it is the highest selection post since there is one more post in the cadre i.e. of Mail Guard driver in the grade Rs 5,500-9000, but that remains a non selection post and in this view of the matter it is only the first part of para 1.1 of circular dated 07.08.2003 that applies and the requirement of objective type of question to the extent of 50% marks in written test is inevitable for the written test for the post Passenger Guard. The post of Station Superintendent is the highest selection post, necessitating prescription of 50% of objective type of questions in written test. He has also placed reliance on numerous decisions in support of the various contentions adduced above.

8. Mr. Girish Joshi, counsel for the intervener reiterated the grounds of defence taken on behalf of respondents. Mr. Vijay Mehta, learned counsel for the private respondents in one of the OAs also advanced his arguments and submitted that there was some confusion regarding service of the notices on the trade union in as much as no copy of paper book was made available to concerned Trade Union. However he tried to demonstrate that a grave irregularity has been committed in conducting the examination and the same has been rightly cancelled and adopted the submissions made on behalf of official respondents.



9. We have considered the rival submissions put forth on behalf of all the contesting parties. As far as the factual aspect of these cases is concerned, we notice that the posts in question are selection posts and are required to be filled in on the basis of positive act of selection consisting of written test and paper screening as per para 219(g) of IREM Vol-I 1989 Edn. The written examination shall be of 50 marks

and in this case on question papers 35 marks have been indicated and in preparing the result the equivalents in 50 marks have been taken into account. All the candidates opted for Hindi Medium. It is a fact that the question papers neither contained any question on Rajbhasa nor the same were bilingual. It is also seen from the records that the complete select list was prepared but before the competent authority could approve the final panels, certain complaints were received against the written tests. Thereafter, the details were called from the concerned authority regarding the alleged irregularities and also as to which questions fell within the ambit of objective type of questions. Taking the information, so gathered, into consideration, the decision was taken to scrap the written test.

9. The factual aspect as borne out from the records prepared on the basis of inquiry/investigation, in respect of actual objective type of questions set out in the written test, are as under:

Post	Objective type Question -Marks	%
(i) Pass. Guard	14.4.05 15 marks out of 35	42.55
	21.4.05 7.5 marks out of 35	20.14
(ii) Station Master	10 marks out of 35	28
(iii) Station Supdt	10 marks out of 35	28

10. Before examining the crux of the matter, we find it expedient to adduce the following excerpts from the relevant rules/instructions for appreciating the controversy involved in this case:

"Guidelines for paper setters and paper evaluators

1.2. (g) 50% questions should be of objective nature. The objective type questions can be of 'Multi Choice' or to be narrative type i.e. Fill in the blanks. True or False or **one to two words answers** or abbreviation. When the question paper contain objective type of questions 'Key' has to be invariably prepared and sent in a separate sealed cover along with question paper, which in turn will be handed over to the official nominated to evaluate the question paper.

(i) Official Language: 10% questions should be on official language . Raj Bhasa Hindi **though answering this question is optional**



R.B.E. No. 137/2003

Subject: Procedure for holding selections for promotion to posts classified as "Selection".

In terms of extant procedure, selection posts are filled by a positive act of selection consisting of a written test and/or viva voce; viva voce being a must in every case.

1.1. In cases where written test is held as part of the selection for promotion to the **highest grade selection post** in a category, the same includes objective type questions for about 50% (in range of 45% to 55%) of the total marks for the written test. The objective type questions limited to about 25% (in the range of 20% to 30%) of the total marks for the written examination, if any, held as part of the selection for promotion to selection posts in the lower grades, have also been introduced vide ACS No. 130 issued under this Ministry's letter of even number dated 8.3.2002 (Bahri's 32.2002, p.48) with the stipulation that in order to offset the impact of random answering, there will be negative marking for wrong answers to objective type question.

3.1. As a corollary to elimination of viva-voce in the departmental selections, the following decisions have also been taken:-

(i) Written test will invariably form part of all selections held for promotion to posts classified as 'selection' including the posts for which presently only viva-voce forms part of the selection.

(ii) 15 marks hitherto allotted to viva-voce in the selection, which consisted of both written test and viva-voce test, will now be added to written test. Accordingly, the total marks allotted to written test for assessing professional ability of the candidates shall be 50 (both in cases where presently written and viva-voce or only viva-voce form part of the selection) except in the case of selection to posts in the categories of Teachers, Law Assistants, Physiotherapists and Telephone Operators for which the existing distribution of marks, namely, 35 for written test and 15 for viva-voce will continue to be in force.

Sub. - Option of Hindi medium in Departmental Examination.
(Rly. Bd's letter No. Hindi-87/OL-1/10/3 dt. 3-11-88).

4. Question papers of all the departmental tests, whether technical or non-technical should invariably be prepared in bilingual form. Each question paper should contain the clear mention about the option of Hindi Medium.

6. Questions regarding Official language Policy and Rules should also be set up in departmental tests, which include technical and non-technical examinations also, conducted for group 'C' posts, for promotion for group 'C' to group 'B' posts and in limited departmental competitive tests conducted for filling up the vacancies in group 'B'. In order to judge the professional ability of the employees for this purpose, 10% marks out of total prescribed marks should be prescribed for Official Language Policy and Rules and these questions should be set up in consultation with the Mukhya Rajbhasha Adikari.

5. In case, **option of Hindi medium is not allowed** or **question papers are not make bilingual in any departmental tests**, whether technical or non-technical, such an examination will be treated against the rules and could be cancelled by the competent authority. (emphasis ours)



11. The concept of the objective type of test has been lucidly illustrated by the Apex Court in case of **Subhash Chandra Verma and others, etc., v. State of Bihar and others, etc.**, AIR 1995 SC COURT 904, wherein their Lordships have held that if in an objective type of test, more than one answer are given, the candidates are required to tick mark the answer that is the most appropriate out of the plurality of answers. The questions and answers were prescribed by the experts in the field with reference to standard books. However, in the instant case a wider scope is provided by the ibid instructions issued by the R/Bd and the objective type questions can be of 'Multi Choice' or to be narrative type i.e. Fill in the blanks. True or False or one to two words answers or abbreviation. In any case we have taken the statistics as given by the competent authority on this score as true which is indicated above.

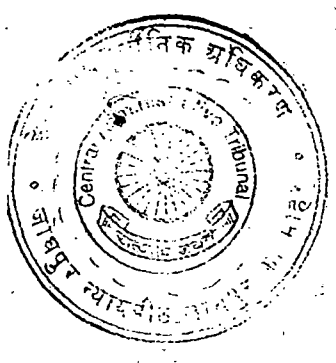
12. The post of Station Master is admittedly not a highest selection grade post and this position is also borne out from the relevant records wherein no irregularity on this count is found; rightly so because the requirement is of 20-30 marks objective type questions which was there. The post of Passenger Guard is also not a highest selection post as it falls in the middle of cadre. The condition of 50% objective marks is not applicable in case of selection to the post of Passenger Guard. The similar issue has already been settled by this very Bench of the Tribunal in case of **R P Katara and Ors Vs. Union of India & ors OA No. 237/2001** decided on dated 24.9.2001 by relying order dated 16.7.2001 passed in OA No. 255/2001 by Jaipur Bench of Tribunal and the same does not remain res integra. We can only assert at this juncture that independent of the said authority, if we were to examine the matter, we would have reached to the same conclusion. If that were so no fault can be found with the selection to the said post on



account of objective type of question since the question paper contained at more than 20% marks as objective question. The impugned orders on this count cannot be sustained for these two posts.

13. Now we would advert to the case of Station Superintendent, which is admittedly a highest selection post, attracting the provision of 50% of objective type of questions. But in the question paper for the said post, objective type of question to the extent of 28% of marks for written test were only provided. These marks are much below the margin prescribed under the rules in force i.e. 45-55% of marks. We are of the considered opinion that the defect is fatal and violates the mandatory provisions and also goes to the root of the matter. The very object to provide certain relaxation/convenience to the elderly employees holding the highest-grade selection post would get frustrated. No fault can thus be fastened with the respondents in cancelling the written test held for the post of Station Superintendent and on this count itself the OA No. 260/2005 cannot be sustained.

14. Adverting to ~~issue~~ relating to Official Language: 10% questions should be on official language i.e. Raj Bhasha Hindi. The answering this question is optional as per the instructions mentioned in para 9 above. It was specifically argued on behalf of the side of applicants that at one place of the reply it is said to be optional and other places it was said to be mandatory. But no rebuttal was forthcoming from the side of respondents. The answering of such question being optional, no prejudice could be said to have been caused to anyone in case the question paper does not contain questions in Rajbhasha. This ground of defence has no legs to stand. Otherwise also, there are



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specific grounds/ circumstances under which the test can be cancelled due to non-adherence to the circular relating to the Hindi use. The same are being dealt with in the succeeding para.

15. Ostensibly, perusal of para 3 of circular dated 3.11.88, indicates that there is a mandate to prepare the paper in bilingual form but a conjoint reading of the same with para 12 of the circular dilutes the position and gives a discretion to the competent authority to cancel the test in case, the option of *Hindi medium is not allowed* or *question papers are not made bilingual in any departmental tests*. The rule provides that such test can be cancelled for the said irregularity and not that it must be cancelled in all circumstances. Thus the provision can aptly be termed as is directory in nature. The test could be cancelled on any of these two grounds and we do not concur the submission that the test can be cancelled only if one of these conditions is not fulfilled. However, the discretion has to be judicious. It is no body's case that anyone has been prejudiced in any way due to non-preparation of paper in bilingual form. Admittedly, all the candidates appeared in Hindi Medium. There is absolutely no reason or justification for cancelling the test on this count since in the facts and circumstances of this case, no person of ordinary prudence would have arrived at such a conclusion. The competent authority has only termed the action as defective and nothing more. Thus, we have no hesitation in holding that the impugned order cannot be justified on this count.



16. Much stress was laid from the side of the respondents that the applicants do not get any prescriptive right by passing the written test and none of their enforceable right has been infringed. We may

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hasten to add that even after empanelment one does not get any such right and even the appointment can be refused to a candidate but decision not to fill the post has to be bona fide one (constitution bench decision apex court in case of **Shankarsan Dash v. Union of India**, (1991) 3 SCC 47 refers). In the present case the written test in OA Nos. 253 and 259 of 2005 have been cancelled without any demur as has been elucidated above and the action of the authorities would visit the applicants with unfairness and therefore the action of the respondents to that extent is perverse. The justice cannot be sacrificed on mere technicalities with nothing more. This tribunal has every power to right the wrong. Therefore, it is wrong to contend that no indulgence is warranted in the said cases. In view of the aforesaid elaborate discussions, we do think that there is any necessity to refer to all the decisions cited on behalf of the parties.

17. In the premises we pass the order as under:

1. The OA Nos. 253 and 259 of 2005 have ample force and stand allowed. The impugned orders dated 23.8.2005 at Annexure A/1 in both these OAs, cancelling the written test for the post of Pass Guard and Station Master, respectively, are hereby quashed. The respondents are directed to finalise the selection on the basis of the result of written test at Annex A/3 to both the OAs, as expeditiously as possible and in any case not later than two months from today. Consequences to follow. The interim order already issued are made absolute
2. The OA No. 260/2005 R K Ojha & ors Vs. Union of India & ors sans merits and the same stands dismissed, accordingly. The interim order already issued stands vacated forthwith.
3. There shall be no order as to costs.



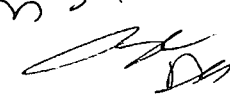
Sd/-
(J.K. Kaushik)
Judicial Member

CERTIFIED TRUE COPY


Dated 30/1/06

Sd/-
(V.K. Majotra)
Vice Chairman

For
Central Administrative Tribunal
Jodhpur Bench Jodhpur.

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