

CENTRAL ADMINISTRATIVE TRIBUNAL,

JODHPUR BENCH.

O.A.NO.302 OF 2005

December 6, 2006

CORAM : HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN (JUDICIAL) &
HON'BLE MR. R.R.BHANDARI, ADMINISTRATIVE MEMBER.

1. Ajay Kumar Sharma S/o Late Shri Ramesh Chandra Sharma, aged about 41 years, at present working / appointed on the post of Station Master Degana N/W Railway, Jodhpur.
2. Babu Ram Vishnoi S/o Shri Barsinga Vishnoi aged about 44 years, at present working / appointed on the post of Station Master Shaitan Singh Nagar, near Falodi in Jodhpur Division N/W Railway.
3. Ashok Kumar Chandak S/o Shri Tarachand Ji Chandak, aged about 43 years, at present working / appointed on the post of Station Master Uttarlai Jodhpur Division N/W Rly.
4. Trilok Raj Prajapat S/Shri Jeev Raj Prajapat aged about 49 years at present working / appointed on the post of A.S.M. Basani, Jodhpur Division, Jodhpur.
5. C.N. Srivastav S/o Shri K.L. Srivastav aged about 45 years at present working / appointed on the post of Station master Makrana, Jodhpur Division, Jodhpur. Corresponding Add : C/o Ajay Kumar Sharma, Quarter No.L-4, Rly. Colony, Degana.

Applicants

By Mr. J.K. Mishra, Advocate.

Versus

Union of India through General Manager, North West Railway, Jaipur.

2. Divisional Railway Manager, Jodhpur Division, Jodhpur N/W Railway.
3. Sr. Divisional Personnel Officer, North West Railway, Jodhpur Division, Jodhpur.

Respondents

By : Mr. Vineet Mathur and Manoj Bhandari, Advocates.

ORDER (ORAL)

KULDIP SINGH, VC

The applicants have filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking the following relief :

"(i) That impugned order dt. 23.8.2005 Annexure A/1 and order dated 19.9.2005, Annexure A/2 may be declared illegal and arbitrary and the same may be quashed with all consequential benefits. Any further

proceeding/examination/selection if made after filing of this OA may also be declared illegal and the same may be quashed.

(ii) The Respondents may kindly be directed to make the paper screening and prepare the panel for promotion as per result dt. 18.5.05 Annexure A/3".

2. The facts as alleged in the O.A. are that there was a selection for promotion in the lower grade to fill up 24 posts of Station Master in the grade of Rs.6500-10500. The written test was scheduled for 12.3.2005 and the applicants being fully qualified and eligible, were called along with other candidates to appear in the written test vide letter dated 15.2.2005 (Annexure A-3). As per RBE No.137/03 dated 7.8.2003, the objective type questions for selection posts for promotion in the lower grades is limited to about 25% (in the range of 20% to 30%, of total marks) for the written test. However, this includes objective types questions for about 50% of the total marks for the written test in the selection for higher grade i.e. Rs.7450-11500. Further as per Railway Board letter No.Hindi-87/OL-1/10/3 dt.3.11.88, the candidates will have option to answer the question paper in Hindi and also the question papers are required to be prepared in bilingual in all the region "A" whereas the papers were only prepared in English language. This was made compulsory to promote the Hindi in Railways.

3. It is alleged that the total marks in the written test for the grade of Rs.6500-10500 was fixed as 35 out of which 10 marks was allotted for objective type question which is more than 20% of the total marks for written test. The written examination was held on 12.3.2005 and supplementary examination was held on 30.4.2005. All the applicants appeared in the said examination and did well. The question paper was in Hindi and 4 questions each of 2-1/2 marks were of objective type and remaining question was of description type. Thus, the question paper was as per RBE letter dated 7.8.2003 and 3.11.1988.

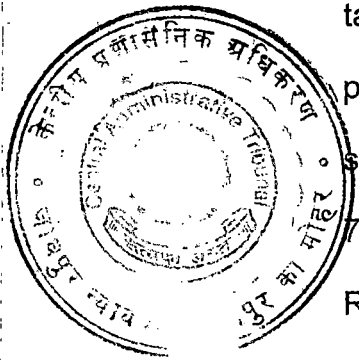


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4. It is submitted that the result was declared vide letter dated 18.5.2005 and all the applicants were declared as passed and found eligible for paper screening for selection to the post of SM Grade 6500-10500. The name of the applicants is at Sr. No.10, 19, 18, 25 and 14 in result declared vide letter dated 18.5.2005 (Annexure A-4). Similarly, selection was also held for promotion to the grade of Rs.7450-11500 and to the grade of Rs.5000-8000 in the Guards Category. The question paper was prepared on the same pattern for completion selection in different categories. There was no ~~any~~ objection either by employees or by administration side

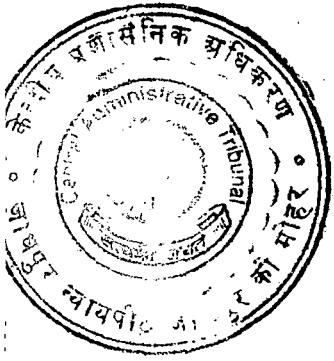
5. It is alleged that persons who could not qualify in the examination made false and frivolous complaint to the respondents and matter was taken up in the PNM Meeting (Annexure A-5). No progress was made for taking further action in the selection. The applicants were waiting for paper screening and promotion to the grade of Rs.6500-10500 but suddenly the respondent no.3 cancelled the written test held on 7.5.2005, 12.3.2005 and 30.4.2005 on the ground of being violative of RBE dated 7.8.2000 and 3.11.1988 vide order dated 23.8.2005 (Annexure A-1). Earlier in pursuance of similar examination as held in the case of the applicants, persons were promoted but now a different criteria is sought to be followed which is illegal. There is no cogent reason for cancelling the examination. The examination cannot be cancelled on the complaints of those who appeared in the same without any objection and having failed, have now lodged baseless complaints. The test was conducted as per the instructions and rules. The cancellation has been done by respondents without any power or authority.

6. Respondents have filed a reply contesting the Original Application. It is submitted that as per the instructions, 10% of the question should be related to Raj Bhasha though such question will be optional. The complaints by staff and recognized unions were made at all level and after examination of the complaints on merit, it was decided by the




competent authority to cancel the selection and due notice was issued in this regard.

7. We have heard learned counsel for the parties and perused the material on file.
6. Learned counsel for the applicant has produced before us copy of decision dated 27th January, 2006, delivered by a Division Bench of this Tribunal in three O.As. No. 253, 259 and 260/05 titled **Hukam Chand Meena & others Vs. Union of India & others**. He submits that similar controversy involving the same impugned order, as challenged in this O.A., has been adjudicated in those three O.As. We have perused the same.
7. We find that in those O.As also the legality of the order dated 23.8.2005, as challenged in this case, was involved. The Court held that all the candidates appeared in Hindi Medium. There is absolutely no reason or justification for cancelling the test since in the facts and circumstances of the 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. It was held that written test has been cancelled without any demur and action of the respondents would visit the applicants with unfairness and the justice cannot be sacrificed on mere technicalities with nothing more. The O.As were allowed and the impugned order dated 23.8.2005, which also stands challenged in this case also, was quashed. It is also stated at the bar that the said decision was challenged by the respondents before the Hon'ble High Court and the same stands upheld. Learned counsel for the respondents could not dispute this factual position.
8. We find that the present case is fully covered by the decision in the case of Hukam Chand Meena & Others (supra). Thus, it is allowed in the same terms as contained in the case of Hukam Chand Meena & Others (supra). The impugned orders in this case are quashed and set aside, qua the applicants. The respondents are directed to finalise the selection qua the applicants on the basis of the result of written test, as



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expeditiously as possible and in any case not later than two months from today. The interim relief dated 7.10.2005 is made absolute. However, there shall be no order as to costs.

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R.R. Bhandari
(R.R.BHANDARI)
ADMINISTRATIVE MEMBER

Kuldip Singh
(KULDIP SINGH)
VICE CHAIRMAN (JUDICIAL)

HC*



Part II and III destroyed
in my presence on 11/21/14
under the supervision of
section officer (J) as per
order dated 31/01/14

[Signature]

Section officer (Record)

OK 11/12

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