

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No. 442 of 1994

Monday, this the 4th day of December, 1995

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR S.P. BISWAS, ADMINISTRATIVE MEMBER

1. S. Veluswamy,  
Chief Travelling Ticket Inspector,  
Grade-II, Palakkad Division,  
Erode Junction, Palakkad. .. Applicant

By Advocates Mr. K Ramakumar and Mr. KV Navaneethan

Versus

1. Union of India represented by  
the General Manager,  
Southern Railway, Madras.
2. The Senior Divisional Commercial Manager,  
Southern Railway,  
Palakkad.
3. Divisional Personnel Officer,  
Southern Railway,  
Palakkad Division, Palakkad.
4. C. Balaraj,  
Chief Ticket Inspector,  
Southern Railway, Shornur.
5. Kannan,  
Chief Ticket Inspector,  
Southern Railway, Kannur.
6. Perumal,  
Chief Travelling Ticket Inspector,  
Grade-II, Salem.
7. Damodaran Nair,  
Chief Travelling Ticket Inspector,  
Grade-II, Calicut. .. Respondents

By Advocate Mr. Mathews J Nedumpara (R1-3)

The application having been heard on 4th December, 1995  
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant seeks a declaration that he is  
entitled to be selected for promotion to the post of

Chief Travelling Ticket Inspector Grade-I, from his present post of Chief Travelling Ticket Inspector Grade-II. The main plank of his attack is that 50% of the total marks have been allocated for viva-voce test. That is objectionable, says Counsel relying on the decision in Ajay Hasia & Ors Vs. Khalid Mujib Sehravardi & Ors (1981 (1) SCC 722). To lace his contention further, he has also relied on a decision of a Bench of this Tribunal in Sivadas & Anr Vs. Union of India & Ors (1992 (2) ATJ 235). The Bench took the view that 50% marks allocated for viva-voce is illegal. We find that the same bench has taken a contrary view in D. Babu & Ors Vs. Union of India & Ors (1994 (26) ATC 293). The earlier case decided by the Bench and the later case decided by the Bench relate to promotion. While in the former they held that 50% was excessive, in the later they held that 50% was not excessive. Ajay Hasia's case can be distinguished on facts as that was a case where there was a written test and an interview. The Supreme Court has noticed this distinction in later decisions.

2. As rightly pointed out by Standing Counsel for Railways allocation of 50% marks by itself is no vice and it has been so held in Anzar Ahmad Vs. State of Bihar & Ors (AIR 1994 SC 141); A.P. State Financial Corporation Vs. CM Ashok Raju & Ors (AIR 1995 SC 39); and Subhash Chandra Varma & Ors Vs. State of Bihar & Ors (AIR 1995 SC 904).

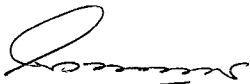
3. In the light of the pronouncements of the Supreme Court, we are not prepared to hold that

...3...

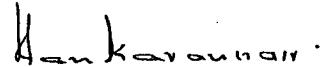
allocating 50% marks for interview is illegal as a general proposition. On that ground interference is not called for. If as Counsel for applicant states, the matter requires examination on facts, such examination is to be made by the higher departmental authorities. He may approach them.

4. Original Application is disposed of as aforesaid. Parties will suffer their costs.

Dated the 4th December, 1995



S.P. BISWAS  
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR (J)  
VICE CHAIRMAN

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