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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT SITTINGS AT NAGPUR.

Tr. Application No. (N) 228/87

1. Syd. Salar Syd. Yasin,
R/o Near the Bad Masjid,
Teka, Kamptee Road,
Nagpur-17.
2. G.K. Pillai,
C/o S.I. Office, Amla,
Dist: Baitul (MP)
3. Dnyaneshwar Nathobaji,
R/o C/o R.V. Maske,
Rly. Quarter No. MA/228/A,
Ajni,
Nagpur.
4. Suhas Vinayak,
R/o L.I.G. 4/6, Rambag Colony,
Nagpur.
5. P.M. Chacko,
R/o Railway Qtr. No. RB-1/508/H,
Ajni,
Nagpur.
6. Charandas Bhagwan Gajbhiye,
R/o Bhimnagar,
Post Office: Parwatinagar,
Nagpur.
7. Pravin Wamanrao,
R/o C/o DEN Office,
Nagpur.
8. Vithal More,
R/o Plot No. 114-A,
Shiv Nagar,
Corporation Ground,
Nagpur.
9. Vinod Annaji,
R/o C/o G.B. Dahikar,
Behind Old Bishop College,
Mahal,
Nagpur.
10. Chandrapal Maroti,
R/o Railway Qtr. No. RB/1/370-G,
Ajni,
Nagpur.
11. Ramdas Viktuji Maske,
R/o Rly. Qtr. No. MA/228/A,
Ajni,
Nagpur.

.. Applicants

V/s.

1. The General Manager,
Central Railway,
Bombay V.T.

2. The Divisional Railway Manager,
Central Railway, Personal Branch,
Nagpur.

.. Respondents.

Coram: Hon'ble Vice-Chairman, Shri P.S. Shah
Hon'ble Member(A), Shri P.S. Chaudhuri

Appearance:

1. Shri A.Y. Pathak,
Advocate
for the applicants.
2. Shri S.K. Sanyal,
Advocate
for the respondents.

ORAL JUDGMENT:

Dated: 20.7.1989

{PER: Shri P.S. Chaudhuri, Member(A)}

This case arises out of Writ Petition No. 2357/81 which was filed in the Nagpur Bench of Bombay High Court by the eleven applicants (Petitioners) on 7.10.1981. By order dated 12.9.1986 it was transferred to this Tribunal and taken on file as Transferred Application No. 228/87. In it the applicants pray for quashing and setting aside the order dated 23.9.1981 by which the original panel of 37 candidates for promotion to the post of Office Clerk from Class-IV was cancelled and other connected reliefs.

2. The applicants were originally appointed in Class-IV posts on the Central Railway. A notification was issued on 22.3.1979 inviting applications from Class-IV staff of all Departments and certain other staff with a view to form a panel for promotion to the post of Clerk in the scale Rs. 260-400 on the Nagpur Division of Central Railway. In the notification it was stated that "The applications have been called for filling up vacancies of Clerks against the quota of direct recruits.

Thus, the employees promoted as Clerks are liable for reversion to their original posts when direct recruits become available." A written test was held in terms of this notification and, therefore, viva-voce examinations were held in April, 1980. On 26.6.1980 the provisional panel was declared. This provisional panel had the approval of the Divisional Railway Manager(for short, DRM). It had 37 names including the names of all the 11 applicants.

3. On 23.8.1980 orders were issued for the promotion of 23 persons as Clerks. On 20.9.1980 orders were issued for the promotion of a further 19 persons as Clerks. These two orders covering 42 persons covered all the 37 persons on the panel and also covered all the 11 applicants. Thereafter, by the impugned order dated 23.9.1981 the provisional panel of 37 candidates dated 26.6.1980 was cancelled.

4. Being aggrieved, the 11 applicants (petitioners) filed this Writ Petition on 7.10.1981. The operation of the impugned order dated 23.9.1981 was stayed by the High Court. The respondents opposed the application by filing their return. We also heard Mr.A.Y.Pathank, learned advocate for the applicants and Mr.S.K.Sanyal, learned advocate for the respondents.

5. Mr.Pathak made a number of submissions in support of the applicants' case. His first submission was that in terms of the notification the promotees could be reverted only if direct recruits had to be accommodated. We do not see any merit in this submission. The entire panel was set aside because of alleged procedural irregularities.

procedural irregularities or other defects and it is considered necessary to cancel or amend such a panel this should be done after obtaining the approval of the authority next higher than the one that approved the panel."

(Authority- Railway Board's letter No.E(NG)167M1/47 dated 5.2.1969)"

It was his submission that the provisional panel had been approved by the DRM but it was subsequently seen that there had been procedural irregularities in its framing. The cancellation of the panel had been communicated by the office of the Chief Personnel Officer. It was his contention that, thus, the approval of the competent authority had been obtained. We do not see anything wrong with this submission.

9. Mr.Sanyal's second submission was that the reason why panel had been set aside was non-compliance with the Railway Board's letter dated 24.11.1975. As this letter is important, we re-produce it below:-

"In partial modification to orders contained in Board's letter No.Hindi/74/G20/6 dated 15.11.1974 on the subject noted above, the Board have decided that the question papers in all qualifying and competitive departmental tests and examinations in offices located in Hindi speaking areas should invariably be prepared in Hindi and English, both the languages.

2. Further in partial modification to orders contained in para 1 of Board's letter No.E(NG)61CFP/8 dated 29.11.1962 the Board have also decided that from now onwards, it will not be necessary to answer the questions of Part A of the papers in English which is intended to test the working knowledge of the employee of the English language in all departmental tests and examinations to be taken for the promotion of Railway employees in offices located in Hindi speaking areas. Employees are permitted to answer the questions of Part 'A' of the paper either in Hindi or in English language. For this purpose, the working knowledge of Railway employees in Hindi will be considered adequate."

6. Mr.Pathak's second submission was that there had been lengthy delays before the panel was eventually cancelled. He submitted that there has been a lapse of almost 15 months between the notification and the date of publication of the panel. We do not see any merit in this submission. In any case, the delay is not really material to the final view that we are taking in this case.

7. Mr.Pathak's third submission was that the entire panel had been operated and the panel had been completely exhausted and that, further, there was a gap of about a year between the date that the panel was exhausted and the date that the impugned order cancelling it was issued. It was his contention that the cancellation of the panel after it had been completely exhausted was not reasonable. It was his further contention that the further delay of a year after the panel had been exhausted was also not reasonable and vitiated the action taken to cancel the panel. We see considerable merit in this submission.

8. Mr.Sanyal made a number of submissions on behalf of respondents. His first submission was based on para 216(J) of Chapter II of the Indian Railway Establishment Manual. As this is material it is reproduced below:-

"After the competent authority has accepted the recommendations of the Selection Board, the names of the candidates selected will be notified to the candidates. A panel once approved should normally not be cancelled or amended. If after the formation and announcement of the panel with the approval of the competent authority it is found subsequently that there were

Mr.Sanyal submitted that the question paper for Part 'A' of the written test was in English only and required that part of the paper to be answered in English only. He produced one such question paper dated 28.10.1979 for our perusal. It was his case that this stipulation of answering only in English ran counter to the Railway Board's letter dated 24.11.1975 and that was why the selection had had to be cancelled. But this is not the only condition laid down in the Railway Board's letter on which Mr.Sanyal relied. The Railway Board's letter makes it clear that the directive that question papers should invariably be prepared in both the languages Hindi and English was only applicable in offices located in Hindi speaking areas. Mr.Pathak submitted that the under The Official Languages (Use for Official Purposes of the Union) Rules, 1976, the country had been divided into three regions, namely, 'A', 'B' and 'C'. Region 'A' means the States of Bihar, Haryana, Himachal Pradesh, Madhya Pradesh, Rajasthan and Uttar Pradesh and the Union Territory of Delhi. It was his contention that these were the Hindi speaking areas. Region 'B' means the States of Gujarat, Maharashtra and Punjab and the Union Territories of Andaman and Nicobar Islands and Chandigarh. Region 'C' means the States and Union Territories other than those in Regions 'A' and 'B'. It was his contention that Region 'B' was quite different from Region 'A' and that is why it was classified separately. It was Mr.Pathak's contention that, therefore, Nagpur Division, the headquarters of which is in Maharashtra, did not thus

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qualify as a Hindi speaking area. Not being satisfied with this we asked Mr.Sanyal to produce us any authority which indicated that Nagpur Division either was or had been declared to be a Hindi speaking area for the purposes of the Railway Board's letter dated 24.11.1975. Finally Mr.Sanyal produced for our perusal a booklet titled 'Compendium of Administrative orders on the use of Hindi' published by Central Railway in 1975. At page 18 of this booklet 'Hindi Speaking Areas on Central Railway' have been listed as under:-

<u>Division</u>	<u>Area</u>
JBP	Entire Division
JHS	Entire Division
BSL	Burhanpur to Itarsi
BSL	Khandwa to Tukhlatabad
NGP	Amla to Itarsi
NGP	Amla to Parasia

This clearly shows that the whole of Nagpur Division is not a Hindi speaking area. In fact, only a portion, namely, Amla to Itarsi and Amla to Parasia are Hindi speaking areas. We have, therefore, no hesitation in holding that Nagpur Division does not come within category of 'Offices located in Hindi speaking areas' in the context of the Railway Board's order dated 24.11.1975.

10. In this view of the matter, there can be no other conclusion but to hold that there was no obligation to cancel the provisional panel dated 26.6.1980 on the ground that question paper of Part 'A' had not been prepared in both the languages, Hindi and English and that the employees had not been permitted to answer the

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the questions of Part 'A' of the paper either in Hindi or in English language. These instructions of 24.11.1975 do not apply to the panel published by Nagpur Division in 1980. What is more, this panel was cancelled after it had been completely exhausted and that too about a year after the concerned employees had been promoted to the higher post.

11. In result, the Divisional Railway Manager, Nagpur's order No.Nagpur/P752 F/CIIV/III dated 23.9.1981 is quashed and set aside. In the circumstances of the case there will be no order as to costs.


(P.S. Chaudhuri)
Member (A)


(P.S. Shah)
Vice-Chairman.