

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 669 of 1996

Dated this Wednesday the 10th day of October, 2001.

Yakub Daud Sayed Applicant.

Shri S.P. Kulkarni Advocate for the Applicant.

VERSUS

Union of India & ors. Respondents.

Shri S.S. Karkera proxy Advocate for the Respondents.
counsel for Shri P.M. Pradhan

CORAM :

Hon'ble Smt. Lakshmi Swaminathan - Vice Chairman (J)
Hon'ble Shri B.N. Behadur - Member (A)

- (i) To be referred to the Reporter or not ? Yes
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ? No
- (iii) Library. No

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.669 OF 1996

Mumbai, this the 10th day of October, 2001

Hon'ble Smt. Lakshmi Swaminathan - Vice Chairman(J).
Hon'ble Shri B.N.Bahadur - Member (A)

Shri Yakub Daud Sayed,
S/o Daud Subhan Sayed,
aged 41 years,
Chargehand (Ad-hoc),
Mail Motor Service,
Department of Posts,
Pune.
R/o 3/7, Ranka Park,
Sadhu Vaswani Road,
Pune.

... Applicant

(By Advocate Shri S.P.Kulkarni)

VERSUS

1. Union of India,
through the Manager,
Mail Motor Service,
(P & T), Pune - 411 001.
2. Post Master General,
Pune Region, Pune.
3. Chief Post Master General,
Maharashtra Circle,
Old GPO Building, Near C.S.T.,
Central Railway, Fort,
Mumbai - 400 001.

....Respondents

(By Advocate Shri S.S.Karkera proxy counsel for Shri P.M.Pradhan
for the respondents)

O R D E R (ORAL)

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J) -

The applicant has filed this OA being aggrieved by the action and orders passed by the respondents with respect to an examination held for promotion to the post of Chargehand which was to be held on 7.7.1996 (Exhibit - B).

Vz

....2/-

2. The brief relevant facts of the case are that by the impugned orders dated 20.2.1996 and 29.6.1996, the respondents had notified that they were going to fill up vacancies of Chargehand for which a written test was to be held. The candidates for the written test were notified by the letter dated 29.6.1996. They were informed about the venue of the test and the time table of the examination. The candidates were also asked to bring their own pen and pencil for the examination. It was indicated in this letter that there would be a paper in English dictation, Hindi or Regional Language and Arithmetic, each carrying 50 marks. The applicant in his letter dated 4.7.1996 (Exhibit - C) addressed to the Manager, Mail Motor Service, Pune, which is an office under respondent no.2 has stated that he will not appear in the examination and has referred to the contentions raised by him in the present OA.

3. We have heard Shri S.P.Kulkarni learned counsel for the applicant and Shri S.S. Karkera learned proxy counsel for the respondents. One of the main grounds taken by learned counsel for the applicant is that under the Recruitment Rules applicable to the case for holding the written test in question, the educational qualification prescribed in Column 7 (i) for Skilled Tradesmen was Pass in the Middle School Examination. According to the learned counsel, this means that it is pass in VIIth Standard (Vernacular Final) which is the qualification applicant

possessed at the relevant time. On the other hand, the learned proxy counsel for respondents has drawn our attention to the annexures to the additional affidavit filed by them on 01.10.2001. In the notification dated 28.3.1968, the relevant Recruitment Rules, namely the Posts and Telegraphs Department Chargehands (Technical) Recruitment Rules, 1959 (hereinafter referred to as the 1959 Rules') have been amended. With respect to Column 7 of the Schedule to the Recruitment Rules of 1959 which has been relied upon by the learned counsel for the applicant, the following paragraph has been substituted -

"(i) For Skilled Tradesmen Pass in such test as may, from time to time, be specified by the Director-General which shall be equivalent to middle school standard."

At the bottom of this letter, a further note has been appended which reads as follows :-

".....The educational qualification of 8th pass required at present for eligibility for promotion of departmental candidates if the category of skilled Tradesmen to the cadre of Chargehands (Technical) will be replaced by a test which will be equivalent to middle school standard, hereafter. The instructions with regard to the test are being issued separately."

4. According to the learned proxy counsel for the respondents the above Notification dated 28.3.1968 (Exhibit R-2) shows that the educational qualification prescribed earlier under

the 1959 Rules was VIIIth Class Pass, whereas now the test prescribed under Column 7 of the Schedule is to be specified by the Director General, which shall be equivalent to the Middle School Standard. He has also relied on the copy of the letter dated 3.5.1968 (Exhibit R-3) from the Office of the Director General Posts & Telegraphs, New Delhi to all Heads of Circles. In this letter, the marks for the qualifying test for eligibility for recruitment as Chargehand (Technical) are prescribed. Both learned counsel submit that these are the Rules which are applicable to the case of employees for promotion to the post of Chargehand from the post of Tradesmen (Skilled) which post the applicant was holding at the relevant time. In the appendix to the letter of the Director General (Posts and Telegraphs) dated 3.5.1968 there is an appendix which reads as follows:-

Appendix

Guidelines of the syllabus of the test prescribed for promotion of skilled tradesmen to the cadre of Chargehands (Technical).

(i) English Dictation :- This paper is designed to test the ability of the candidate to write correct spellings. A simple passage from any standard book of VIII Class will be dictated.

(ii) Hindi or Regional Language:- This paper is designed to test the capacities of the candidates to write simple and correct Hindi/Regional Language. Questions on compositic filling of blanks, construction of simple sentences with given words etc. will be included.

(iii) Arithmetic: Simple questions of the four fundamental operations viz. Addition, Substraction, Multiplication and Division."

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5. The learned counsel for the applicant has contended that under the 1959 Rules or even as amended in 1968, what is prescribed under Column 7 of the Schedule is "Middle School Standard" which means only VIIth Class and not VIIIth Class pass. He has also submitted that even the note appended in the bottom of the Notification dated 28.3.1968 as annexed by the respondents in their additional affidavit supports his case. He has, however, submitted that he does not have ready with him any documents to support his contention that Middle School standard will necessarily mean only VIIth Class pass and has sought an adjournment for this purpose. Considering the fact that this OA has been filed as far back as on 4.7.1996, we see no reason to grant a further adjournment to the applicant to substantiate his main claim in the OA at this belated stage. In other words, it shows that the applicant himself has not cared to annex any document to substantiate his main claim that the actual standard prescribed in the 1959 Rules or in the amended Rules of 1968, mean only VIIth Standard pass. In the note referred to above in paragraph 3, it is seen that the respondents have stated that the educational qualification of VIIIth pass was the requisite criteria for promotion of Departmental candidates to the cadre of Chargehand (Technical) which was to be replaced by a test which is equivalent to Middle School Standard, to be specified by the Director General from time to time. Therefore, in the light of these documents, we are unable to agree with the contentions of the learned counsel for the applicant that the prescription in

the Recruitment Rules of Middle School Examination can be taken only on VIIth Class Pass and not VIIIth Class.

6. In this connection, it is relevant to mention that Shri S.P.Kulkarni, learned counsel had submitted that from his personal knowledge, at least in the State of Maharashtra, the Middle School Standard will only be equivalent to the VIIth Class Pass standard. While that may be so, what we have to consider here is the 1959 Rules as amended in 1968 which admittedly applies on an All India basis. Therefore, () the contention of the respondents that the educational qualification prescribed in the Recruitment Rules would be as specified by the Director General, Posts & Telegraphs, which is equivalent to Middle School as per the guidelines appended to the letter dated 3.5.1968 is neither arbitrary, illegal or unreasonable or contrary to the rules. Therefore, the objection taken by learned counsel for applicant that the guidelines issued by the respondents are de hors the Rules cannot be accepted and is accordingly rejected.

7. The Tribunal by an interim order dated 15.7.1996 had noted that any appointment made as a result of the test conducted by the respondents will be subject to the outcome of the OA. We

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are informed that the results have been announced and in the meantime consequent reliefs to the successful candidates have also since been given.

8. In view of what has been stated above, we find no merit in this application. The OA fails and is accordingly dismissed. No order as to costs.

B.N. Bahadur

(B.N. Bahadur)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice Chairman

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