

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No.151/97

Dated this Thursday the 6th September, 2001.

Coram : Hon'ble Shri B.N. Bahadur, Member (A)
Hon'ble Shri Kuldip Singh, Member (J)

Shri Mukhtyar Singh Jaswant Singh,
aged about 47 years, Chargeman 'A',
under DEE(TD), Kalyan and residing at
Railway Quarter No.R.N/II/238/7,
Waman Chawal, Thakurli (West),
District Kalyan.

.. Applicant.

[By Shri L.M. Nerlekar, Advocate]

Vs.

1. Union of India,
through General Manager,
Central Railway, Mumbai CST.
2. Divisional Railway Manager,
Central Railway, Mumbai CST.
3. A.D. Kottawar,
C.T.A. CEE(C), CSTM.
4. A.K. Ravi,
SSE, KRCL, BLR.
5. R.K. Chauve,
CTA, CEE, KRCL, BLR.
6. P. Natarajan,
SSE, SDEE (TD), CSTM.
7. K.C. Paul,
SE (I), OEE (TD), Kalyan.
8. K.G. Suble,
SE, DEE (M), Kalyan.
9. K.S. Syali,
SSE, AEE (M), Kalyan.
10. Rajan Singh,
F'Man, DEE (M), Kalyan.
11. D.K. Shrivastava,
SSE, AEE (M), Kalyan.
12. S.K. Agarwal,
SSE, Sr.DEE PR.
13. S.K. Gangal,
LOC Sr.DEE, JHS.
14. R.D. Borikar,
Sr.INAT, 2TC BSL.
15. G.V. Ingle,
JI, Sr.DEE, BSL.
16. R.M. Iyer,
CI, P.Sr.DEE, Nagpur.



17. Y.V.S. Chauhan,
TEO Sr.DEE (TD), JHS.
 18. S.D. Sharma,
CTA, Sr.DEE(TD), JHS.
 19. A.K. Tiwari,
SE II, Sr.DEE (TRD),
JHS.
 20. R.N. Yadav,
SSE, Jr.DEE,
(TRD), JHS.
 21. G.K. Lakhera,
CTFD, Sr.DEE (TD), JHS.
- .. Respondents.

[By Shri S.C. Dhawan, Advocate]

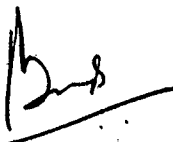
ORDER (ORAL)

By Hon'ble Mr. B.N. Bahadur, Member (A)

The applicant in this OA comes up to the Tribunal seeking relief as follows:-

(i) The result declaring the succesful candidates by letter dated 29.1.1996, Exh./A to this appliation, be quashed and set aside and direct the Respondents to set out a fresh question paper and conduct examination in accordance with law and rules in the matter.

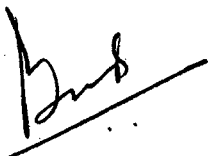
(ii) Direct the Respondents to produce the answer paper of the Applicant to ascertain that all the question-answers were examined and given marks and the total of the marks is correct or otherwise. The applicant also submit that the respondents be directed to produce question and answer papers of the respondents at Sr.No.3 to 21 to ascertain that no extra marks were given to them to score over the applicant or any malpractice is committed in valuation of the papers, to deprive the applicant from empanelment.



(iii) Any other relief as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The facts of the case, as put-forth by the applicant, are that he appeared for written examination held on 2.11.1996 and 3.11.1996 for the formation of panel to the post of Assistant Electrical Engineer (LDCE). He alleges that there were certain irregularities in the examination, in that the question paper was hand written and also that there was discrepancy in Question No.15 of Paper I as between the English and Hindi versions. It is also the grievance of the applicant that the question paper was not set on the basis of rules which provide that 50% questions should be of the objective type and the remaining 50% of conventional type. The applicant also makes a grievance to the effect that respondents have a grudge against him, because he has come up to this Tribunal on more than one occasion, and hence alleges mala fide. It is with these basic grievance that the applicant comes up to us in this OA.

3. The respondents have filed a written reply opposing admission and interim relief {Learned counsel for the respondents Shri Dhawan stated that this reply may be treated also as the final and full reply in the OA}. The respondents resist the claims of the applicant and state that proper procedure has been followed in the selection process and that the applicant

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participated in it without demur. It is argued that since proper procedure has been followed and no illegality or irregularities exist, the Tribunal has limited role in assessing the merits of the decision taken.

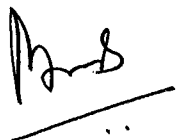
4. Giving details of the examination held in para 8, the respondents further deal with the allegations in para 9. This point was elaborated by the Learned Counsel during his oral arguments and the relevant Answer Sheets in respect of the applicant were produced. Mala fides/grudges on behalf of the respondents towards the applicant are denied and the point is made that the applicant's Answer Book has been properly evaluated.

5. Learned Counsel Shri Nerlekar, who appeared for the applicant, has provided written arguments, copies of which were made available to the Counsel for the other side also. He was present throughout and assisted us as and when necessary. The grounds taken in the written arguments are indeed on the same basis as in the OA. The point regarding the question paper being hand written and without date was strenuously argued. Similarly with the assistance of the copies of the relevant documents provided, the point regarding discrepancy in Question No.15 was also argued, in that the words used in the English and Hindi version were 'Transition' and 'Transmission' respectively. Copies of papers annexed were depended referred.



6. Another point strenuously taken was that the respondents had failed to adhere to the rules in not setting 40% of objective type of questions and remaining as conventional questions. This argument was sought to be taken support of by citing judgments which we shall discuss later. The point of grudge by respondents and evaluation of different papers by different officers was also argued briefly.

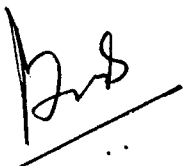
7. Learned Counsel for the respondents Shri Dhawan argued the case reiterating the written statement; he also sought to meet the allegations made out in written arguments on behalf of the applicant. It was pointed out that no rule or guidelines has been violated in bringing out a hand written question paper and this was done in the interest of secrecy. In regard to the point of discrepancy of the words in Question No.15 between the English and Hindi versions, Learned Counsel made the point that no prejudice was caused to the applicant who had answered the paper in English. He produced before us all the original Answer Sheets of applicant to make this point. We shall revert to this point of re-examination of the Answer Sheets ahead in this order. Learned Counsel Shri Dhawan also made the point regarding the ratio of 40% and 60% as between objective type and conventional questions by stating that there was no rule as such. The communication dated 3.4.1992 from the Railway Board produced by Learned Counsel for applicant in the set of papers handed today was also relied upon



by Shri Dhawan. He also argued the point that the model question paper circulated also did not have such a stipulation of the ratio reg. 40:60. The Learned Counsel further denied any grudge on behalf of Respondents or that papers being evaluated by different officers prejudiced the case of the applicant or anybody else. [The photocopy of the hand written paper filed today on behalf of the applicant has also been seen and we find it to be legible and clear. Hence it is as if no difficulty could have been posed any difficulty to any of the candidates at the examination].

8. We have carefully gone through the papers in the case, the arguments put-forth by Learned Counsel on both sides and the case law cited. In regard to the first point about the Question Paper being written in hand, we cannot see how this can vitiate the process of selection or give a claim to the applicant to point out violation of procedure. We see no rules to the contrary. Further the argument about secrecy seems to be plausible. Hence this ground cannot be held to be sustainable.

9. We now come to the point about the discrepancy of the words used in Question No.15 of Question Paper No.1. Indeed, the mistake pointed out is very much evident, the words used being 'Transition' in the English version and 'Transmission' in the Hindi version. Even if we ignore the defence taken by the Learned Counsel to the effect that corrections were announced in the hall

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before examination, the real test here is whether any prejudice was caused to the applicant by such mistake. Indeed if it is so, this matter would need to be viewed seriously. In this connection, we have carefully gone through the original Answer Sheets provided to us by the Department. We find that the Question No.15 of Paper No.I has been answered in English by the applicant (we did show this page to the applicant who is present along with his counsel and he accepts this to be his paper). Now this Question (No.15) has been answered on 'Shunt Transition' and we find that 6 marks have been awarded (Maximum is 10 per Question as seen from the Question Paper). Having secured 60% of the marks on this particular question, we cannot say that any prejudice has been caused to the applicant. Had he secured very low marks or had we seen any problem, perhaps he could have a case but he has none, whatsoever, in view of our perusal of the original Answer Sheets.

10. We now turn to the third point made by the applicant about the ratio of 40:60 in the matter of types of question required to be set, as discussed above. In the letter at page 16 of the compilation given today, i.e., letter dated 3.4.1992, a set of model question papers for promotion from Group 'C' to Group 'B' for Electrical Engineering Department is despatched to all the General Managers of the Indian Railways. It is clarified in this communication that it is not necessary that actual questions may

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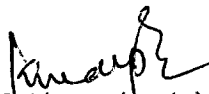
be set out of them (model papers) and the questions would be set at the discretion of Examiners within the prescribed syllabus. We do not find any listing of questions as objective or conventional in the model Question paper, either. Beyond this, it would certainly be outside the scope of the Tribunal to go through the model question papers as if it was an Expert Body to decide on the composition of objective/convention types of Question. Once no rules exist, it is difficult to hold that 40:60 ratio shall be adhered to. In this connection we shall refer to the judgment of the Co-ordinate Bench (Principal Bench delivered on 20.10.1989 {OA 635/1989}). This judgment was relied upon by Learned Counsel of applicant to seek support for his case. We have gone through the judgment and find that it cannot come to the rescue of the applicant. In the particular case involved in this judgment, there was a regular letter from the Railway Board dated 17.4.1984 which had clearly stipulated that objective type questions be set for about 50%. These details have been discussed at para 7 of the judgment and we do not see any reason to restate details of the arguments taken therein. Suffice to say that, that judgment was pronounced in the particular facts of that case, where a specific instruction had been violated.

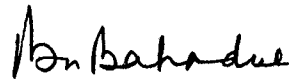
11. It will not take up much time to reject outright the ground/argument regarding grudge on the part of the Railway Officials because the applicant has been approaching this Tribunal

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time and again. He has not arrayed any official in the case as a party, which would have been necessary to allege any meaningful mala fide. Also the point regarding different papers being examined by different officers also cannot be a ground as it is not always possible, having regard to the number of persons appearing at the examination, to have all Question Papers examined by one and the same individual. Hence this also cannot be a meaningful ground.

12. In view of the detailed discussion above, we find no case for interference in this case. The OA is, therefore, dismissed with no order as to costs.


(Kuldip Singh)
Member (J)



(B.N. Bahadur)
Member (A)

Rakesh