

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A. No. 855/92

Dt. of order: 16.2.1994

Vijay Singh

: Applicant

Vs.

Union of India & Ors. : Respondents

Mr. J. K. Kaushik : Counsel for applicant

Mr. Manish Bhandari : Counsel for respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Member (Judl.)

Hon'ble Mr. O. P. Sharma, Member (Adm.).

PER HON'BLE MR. O. P. SHARMA, MEMBER (ADM.).

Applicant Vijay Singh has filed this application under Sec. 19 of the Administrative Tribunals Act, 1985, praying that the order dated 30.12.88 containing the result of the written test of AEM Gr. II and further proceedings of selection for the said post may be declared in-valid, as being in violation of the Railway Board's circular Arnx. A6 dated 13.10.87. He has further prayed that the respondents may be directed to conduct the written test in accordance with the existing rules or in the alternative the respondents may be directed to conduct the applicant's written test by supplying the question paper in Hindi. He has also prayed that his name may be included in the panel prepared for Group B post of Asstt. Engineer, Civil Engineering Department, according to his performance, and all consequential benefits may be given to him.

2. The applicant a Group 'C' employee had appeared on 13.8.1988 in the written examination for Assistant Engineers in Kota Division. Question paper supplied to him was in English. When the question paper was given to him in the Examination Hall he asked for the question paper in Hindi. He was informed that the question paper had not been printed in Hindi and that he could reply it to his understanding. He answered the question paper in the examination hall. On 19.8.88, he made a representation to the Chief

Engineer, in this regard. There was no response to the applicant's representation.

3. The applicant has referred to para 3 of the Railway Board's circular dated 13.10.87 (Annex.A-6) which reads as under:

"It has now been decided that in future if the question papers of any of the departmental examinations to be held by Railway Offices located in 'A' and 'B' regions, whether technical or non-technical, are not printed in Hindi-English bilingual form and option of Hindi medium is not given, the examination could be considered invalid and could be cancelled also by the competent authority."

According to the applicant since he had appeared for the examination from an office located in 'A' Region, he was entitled to be given a question paper in Hindi. The violation of the Railway Board's instruction in this regard has caused serious prejudice in-to his interest.

4. The respondents in their reply have denied that any representation dated 19.9.88 was received from the applicant. They have also denied that the applicant raised any objection to being given the question paper in English, during the examination itself. Further, according to them the applicant had submitted his representation only after the result of the examination had been declared. The applicant appeared in the test knowing it fully/that the question papers were in English and he answered the question paper without any protest. When the applicant felt that he would not be able to pass the examination he has taken this objection and filed this application. Once the applicant had taken a chance to appear in the test and then failed, it was not open to him to raise the grievance now. The respondents have added that the instructions to the students who wished to obtain a Diploma or Degree in Civil Engineering are not imparted in Hindi, but they are imparted in English. Further according to them the applicant had been regularly corresponding with the respondents in English.

5. We have heard the learned counsel for the parties and have gone through the records. It is true that the applicant did try to answer the question paper even though according to him it was in a language which he did not understand. The point however is whether the Railway Board's instructions contained in their circular letter dated 13.10.87 (Annex.A6) should have been followed by the department itself. We are of the view that these instructions should have been scrupulously followed by the authorities conducting the examinations. These instructions stipulate that all examinations to be held in 'A' & 'B' Regions, the question papers in Hindi medium should be supplied and if this procedure is not followed the examination could be considered invalid by the competent authority. There has indeed been a gross failure on the part of the authorities concerned in following the instructions of the Railway Board.

6. In the circumstances of the present case we direct that a fresh opportunity may be given to the applicant to appear in the examination at which the question paper be set in bilingual form and particularly containing the question paper in Hindi. If the applicant is successful in the examination and in the selection process which will follow the examination, he should be given the benefit of passing the examination and the selection process prospectively. The respondents shall take necessary action in pursuance of these directions, within a period of 4 months from the date of the receipt of a copy of this order.

7. We however make it clear that if after August 1988, an examination for this particular post of Asstt.Engineer has already been held in which the question paper set was in Hindi also and the applicant was given an opportunity to appear in the test, the applicant shall not be entitled to the fresh opportunity for appearing in the test as per directions given in para 6 above.

8. The O.A. is decided accordingly with no order as to costs.


(O.P.Sharma)
Member(A).


(Gopal Krishna)
Member(J).