

(36)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

O.As No.985/91 & 272/92.

Date of Judgement 18-12-92

1. D.Nagendra Rao
 2. Mohd. Ishaq
 3. R.Veerabhadra Rao
 4. A.Paramesh
 5. K.Shankar
 6. G.S.John Israel
 7. N.Vijaya Gopala Rao
 8. B.Ram Mohan Rao
 - & K.P.Viswanadha Chari
- .. Applicants in O.A.No.895/91.
.. Applicant in O.A.No.272/92.
- Vs.

1. The General Manager,
S.C.Rly., Rail Nilayam,
Secunderabad.
2. The Chief Personnel Officer,
S.C.Rly., Secunderabad. .. Respondents in both the O.As.

Counsel for the Applicants : Shri G.Rama Rao

Counsel for the Respondents : Shri N.V.Ramana, SC for Railways

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandrasekhara Reddy : Member(J)

[Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)]

These applications are filed seeking a direction to declare the action of the respondents in cancelling the examination held on 29.6.91 as arbitrary and illegal and also to set aside the impugned proceedings No.P.SG/608/Telcom/T.CI/Grade III/LDCE dt. 24.9.91.

2. The applicants responded to a notification inviting candidates for selection for the post of Telecom. Inspector Grade III against the 20% quota (LDCE). They appeared for a written test conducted on 29.6.91, the results of which were declared on 5.8.91. The 9 applicants in these O.As qualified in the written test held on 29.6.91. They were further informed by a circular dt. 14.8.91 that the oral test will be held on 28.8.91. But, much to their ^{disappointment} ~~surprise~~ they were informed that the viva-voce test scheduled to be held on that day was postponed until further

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orders. They ~~also~~ hoped that a new date would be announced. But, while the applicants were eagerly waiting for the viva-voce call, to their shock they received the impugned proceedings dt. 24.9.91 stating that the written test held on 29.6.91 had been cancelled and a fresh written test would be held on 26.10.91. It is stated that they had taken great pains for preparation for the written test ^{for} ~~for~~ which they had ~~been~~ ^{succeeded}.

~~_____~~ It is alleged that the respondents had cancelled the previous examination mainly with a view to give an opportunity to those persons who were unsuccessful in the first attempt. The applicants represented against the cancellation on 26.9.91 and there was no reply from the respondents. In the meantime, since the postponed date for the ~~the~~ examination approached the applicants felt the urge to approach the Tribunal and hence this O.A.

3. The respondents oppose the O.As and have filed a counter. It is stated that 9 vacancies (7 O.C. and 2 S.C.) were announced against the 20% LDCE quota. 149 candidates were alerted and finally 116 appeared. The 9 applicants in these 2 O.As were declared successful in the written test and it is admitted that they were advised to appear for the viva-voce test. Meanwhile, several complaints/telegrams are stated to have been received from the employees pointing out that irregularities had taken place in the written test. Hence, the viva-voce test scheduled to be held on 28.8.91 was postponed as an initial step. Later, the Vigilance Branch submitted a report on the investigations they had conducted. It is stated that the investigation revealed various irregularities and malpractices in the written test held on 29.6.91. Hence, the competent authority decided to cancel the written test.

4. The applicants have submitted a rejoinder in which they describe the allegations of the respondents as vague. ^{It is pointed out} They have not spelt ^{in clear terms} out what irregularities have been committed. ~~_____~~

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5. In the course of arguments, the Tribunal directed the learned counsel for the respondents to furnish the relevant portions of the vigilance report based on which the examination was cancelled. The applicants who had seen the vigilance report have also submitted written arguments. The vigilance report had ^{cast} its doubts about the proper conduct of the examination because exactly 9 out of 116 candidates had qualified against the 9 vacancies announced. It is contended by the applicants that this coincidence cannot lead to the conclusion that there were irregularities in the conduct of the examination. The Vigilance Branch also wondered why 2 candidates only were given additional marks. It is contended that no uniform procedure can be followed in awarding the marks and that it depends on each and every case and on the judgement of the examiner. The applicants ~~come~~ further to argue that even if it is assumed that allotment of additional marks only to 2 candidates was irregular, it should not have led to the cancellation of the entire examination. If the respondents wanted, they should have investigated further into the marks allotted only to the 2 candidates in question. If ^{any} ~~the~~ foul-play was reasonably established, the results of the two candidates could be annulled after notice to them.

6. We have examined the case and heard the rival sides. The vigilance Branch which acted on complaints observed-

i) that the number of candidates successful in the written test were not only the same in number as announced but even the break up (7 OC+2SC) was the same. They were surprised at such ^{a total} ~~deep~~ coincidence.

ii) Marks were added in the case of ^{only} two candidates to boost them up. This was however not done in the case of

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other marginal candidates who also would have passed with such additions.

iii) The answer books given to the officer-in-charge conducting the examination were not accounted for properly. Also, many of the answer books did not have the initials of the officer who supervised the examination. The respondents therefore, concluded that since the examination was not conducted properly, there were possibilities of malpractices, and that the best way was to cancel the examination. It is this action of theirs that is to be examined.

7. It is required that the supervising officer authenticates each answer book - main book as well as additional answer sheets, by affixing his initials, before supplying them to the candidates. The main answer book of the candidate John Israil is not authenticated. Besides, this candidate passed the written examination because marks were added to him after totalling in the title page. We also noticed that there were many other answer books which did not bear the initials of the supervising officer. The total number of candidates was only 116. It was not at all difficult to authenticate the answer books of such a convenient number. There is a strong possibility of substitution of answer books after the examination was over. That most such answer books did not ensure success of the candidates does not minimise the seriousness of the situation. It is not necessary to speculate in this O.A. the level/stage at which such an act could have been committed. It is left to the respondents to take such action as they deem fit.

8. The above apart, the manner of valuation is another aspect which is cloudy. Of the 116 answer books, it is ~~only~~ in the case of ~~two~~ ^{two} candidates - Israil and Viswanatha Chary that marks were added after totalling was over. That this addition was crucial, in that such addition pulled them up over the barrier to pass, cannot escape notice. There were 3 other candidates Sampathy, Shaikh Lal Saheb and Sivaramakrishna Rao

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whose cases were also marginal like Israil and Viswanatha Chary. If similar additions had been made, they too would have passed. It is difficult to believe that only 2 cases warranted addition of marks after a recheck.

9. It is in the above context that the coincidence (7 OC + 2 SC) of the successful candidates and the announced vacancies also 7 OC + 2 SC, assumes significance. Substitution of answer books followed by suspicious valuation coupled with this coincidence points to a strong need for quashing the entire process. It is evidently this situation that led the CSTE to scrap the examination.

10. It was contended by the applicants that any re-examination would set at nought the preparations they had made for the examination. We gave our thought to this and examined if, instead of a re-examination, revaluation by another examiner would suffice. Since, as observed earlier in para 7 about substitution of answer books, this step will be nowhere near justice. A re-examination is the only answer to the situation.

11. In view of the above, we uphold the action of the respondents in cancelling the written test held on 29.6.91. The O.A. is dismissed with no order as to costs.

R. Balasubramanian
(R. Balasubramanian)
Member (A).

T. Chandrasekhara Reddy
(T. Chandrasekhara Reddy)
Member (J).

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Dated: 18th December, 1992.

82/12/92
Deputy Registrar (J)

- To
1. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
 2. The Chief Personnel Officer, S.C.Rly, Secunderabad.
 3. One copy to Mr. G. Rama Rao, Advocate, HIG-I? Block-5, & Flat 10 Baghlingampalli, Hyderabad.
 4. One copy to Mr. N.V. Ramana, SC for Rlys CAT, Hyd.
 5. One spare copy.

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THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 18-12-1992

ORDER/JUDGMENT:

R.A./ C.A./M.A.No.

O.A.No.

in

T.A.No.

(W.P.No.)

Admitted and Interim Directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as with drawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

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