

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

C.A. No. 768/92.

Dt. of Decision : 28.7.94.

Mr. D.S. Ramakrishna

.. Applicant.

vs

1. Union of India, rep.by
General Manager,
SCRly, Secunderabad.

2. Chief Personnel Officer,
SC Rly, Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. G. Bikshapathy

Counsel for the Respondents : Mr. N.V. Ramana, ~~Asst.~~ CGSC. for Rlys.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

pyv

(26)

Date d. 28/7/94.

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OA 768/92

J U D G E M E N T

(per Sri Justice V. Neeladri Rao, Vice-Chairman)

The applicant was initially appointed as Trainee Electrical Chargeman, Grade-C on 17-8-1972 and after successful training he was posted on 28-5-73. On being selected as Senior Lecturer in System Training School, Secunderabad in Mechanical Department, he was appointed as such on 25-11-77. He was eligible for promotion to Group-B post. ^{He too applied for Group-B post} In pursuance of notification issued on 8/9-8-91. He was qualified in the written test. But when he failed in the interview he was not empanelled. Being aggrieved, this O.A. was filed praying for a direction to the Respondents to include his name at appropriate place in the panel for Group-B post.

2. The Railway Board's letter No.E(GP)88/2/111 dated 20-8-91 stipulates the method of selection for promotion from Group-C to Group-B. It envisages written examination comprising one paper with maximum marks of 150 and those who got 60 per cent or more in the said paper have to be called for interview. Twenty five marks are allotted for viva voce and another twenty five marks are allotted for record of service. ^{minimum} The qualifying marks for viva voce and record of service put together is 60 per cent. It also states that atleast 15 marks out of 25 should be obtained in the record of service.

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3. The said scheme further envisages that those who got more than 80 per cent marks in the aggregate, that is the marks secured in written test, viva voce and record of service put together, have to be graded as outstanding, and the ranking from amongst them have to be given on the basis of seniority. The rest who have secured 60 per cent and above in the viva voce and record of service put together will be placed on the basis of seniority. Thus, the marks secured in the written test have a bearing only for the purpose of obtaining the grade of outstanding and if no one obtained the grade outstanding, then the marks secured in the written test have no bearing for all those who have secured the minimum qualifying marks in viva voce and record of service put together i.e. 60% have to be placed on the basis of seniority, in the panel.

4. While it was held by Ernakulam Bench in 1991(4) SLR (CAT) 396 (K.Yeshodharan Vs. General Manager, Southern Railway & ors.) and 1993(23) ATC 146 (A. Radhakrishnan Vs. G.M., Southern Rly.) that the rule prescribing minimum qualifying marks for viva voce and record of service put together is not valid, the Madras Bench held in unreported judgment dated 15-3-90 in O.A. 507/89 (B.Krishna Murthy Vs. G.M., Southern Rly) that the said rule prescribing the minimum qualifying marks for the viva voce and record of service put together is valid. In view of the divergence of views

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the matter was referred to Full Bench and ~~it was held~~ in 1994(2) SLR 153 (CAT) (M.R.Gopalakrishna Vs. G.M., Southern Rly.) the said Full Bench agreed with the view expressed by the Madras Bench and thus the view of the Ernakulam Bench was over-ruled, ^{thus} and there is no merit ~~for disposal of this O.A.~~ ⁱⁿ about the contention that the fixation of minimum qualifying marks for viva voce and record of service put together is not valid.

5. It was pleaded for the applicant that the members of the selection committee have to award marks under each head separately at the time of interview and in support of the said contention 1971 SC 2303 (A.Periakaruppan Vs. State of Tamil Nadu and others) is relied upon. But in 1981(3) SLR P.56 (SC) (Lila Dhar Vs. State of Rajasthan & ors.) the Supreme Court held that the award of marks under different heads may lead to distorted picture of the candidate on occasions and on the other hand the totality of the impression created by the candidate on the interviewing body may give a more accurate picture of the candidate's personality and it is for the interviewing board to choose appropriate method of ~~marking~~ ^{for} at the selection ⁱⁿ to each service, if the rules do not prescribe either of the methods. The rules in regard to selection from Group-C to Group-B in the Railways have not stipulated that marks have to be allotted under each head separately. Hence the contention ^{raised} ~~drawn~~ for the applicant has to be repelled.

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The further case of the applicant is that as he was on the teaching line, Respondent No.2 had expressed that he would not be useful as AME/AWM and hence purposely he was given less marks so as to see him failed in the interview and there will not have been any other reason for giving less marks to the applicant who is a graduate in engineering and who is a senior lecturer for more than 15 years and all the candidates who were selected on the mechanical side had undergone the course under the applicant and further they are not even the diploma holders.

6. O Glenn Stahl observed in his book, Public Personnel Administration that "any form of written test possesses certain administrative advantages over the oral and performance types. ... As a general rule it is easier to evaluate objectively." But it is also observed therein that the technical proficiency demanded in rating on the basis of written test is usually, although not always less. As such the oral test which has long served as a basic selection tool in private employment had been slowly accepted in public field also. Though there are the following acknowledged disadvantages in assessment on the basis of the oral test, (1) the difficulty of developing valid and reliable oral tests; (2) the difficulty of securing a reviewable record of an oral test; and (3) public influence through the destruction of anonymity. But as satisfactory written test is not devised for measuring such personal characteristics as initiative, ingenuity and ability to elicit cooperation, many of which are of prime importance, when properly

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employed, the oral test adopted deserves a place in the battery used by the technical examiner. The general principle is that resort should never be had to an oral test if the relative factors to be decided can be measured at some other point in the examining process.

The reason is that the reliability of the oral under the best of conditions, tends to be lower than that of the well designed written test. The oral test should be confined, then to the evaluation of relevant traits when cannot be measured in any other way.

(P.92 of the Public Personnel Administration by O Glenn Stahl). The same was referred to with ~~an~~ approval in Lila Dhar's case.

7. Thus, when there is viva voce/oral test besides the written test, the oral test has to be confined only to test the personal characteristics such as initiative, ingenuity, ability to elicit cooperation and such other characteristics which are necessary for efficient discharge of the job and which cannot be ^{assessed} ~~decided~~ on the basis of written ~~test~~ examination. In this case the written test comprised a paper on technical and professional subjects. As already observed, the marks obtained in the written test have no bearing for placement of seniority except in a few cases of giving the grade of 'outstanding'. Thus, in regard to those who have not got a grade of 'outstanding', all those who have passed in the viva voce are given places on the basis of their seniority, and thus the marks obtained in the written test do not count for rankings in the category

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other than 'outstanding'. When the technical knowledge required for the job was already assessed on the basis of the written test and as only those who qualified in the written test were called for viva voce, the same has to be confined only to test the personal traits referred to above.

8. When even those who are on the teaching side are eligible as per recruitment rules for promotion to Group B post, it is not open to the selection committee/D.P.C. to debar a candidate only on the ground that he has no practical knowledge in regard to the subject. In Lib Dhar's case it was observed that in cases of proven or obvious oblique motive the court/tribunal can interfere wherein viva voce is the sole or one of the components for selection. Though the applicant had not got the highest marks in the written test he got sufficiently high ranking in the written test. Even though he was sufficiently senior and he could have been empanelled if he got the minimum in the viva voce, his name was not included in the panel as less marks were awarded to him in the viva voce.

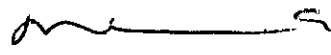
9. As already observed the applicant was working as a lecturer for a number of years. He got good marks even on the basis of the assessment of CRs. Thus it is not a case where he is inefficient in teaching line. His performance in the written test and the evaluation of his work as per CRs would indicate that he is having sufficiently good knowledge in the subject. When the applicant had come up with a plea that he was informed that he would not be selected as he had no practical knowledge, and as there will not be any reviewable record of oral test and as it is a case of assessment in regard to personal traits and as those who passed had undergone

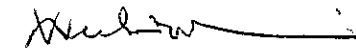
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course under the applicant and as some of them are not even diploma holders, we feel it a case where the version of the applicant that he was given less marks in the interview to fail him on the basis that he has no practical knowledge, can be believed, and as it is stated that the court/tribunal can intervene in a case of proven or obvious oblique motive, it can also be followed even in a case of awarding less marks in the interview where a minimum is prescribed for the interview marks, on the basis of extraneous consideration.

8. Hence it is just and proper to give a direction for convening a review selection committee for the oral test of the applicant and if he gets the minimum marks in the interview ^{and version of service put together} he has to be empanelled on the basis of seniority and he has to be given promotion from the date on which ^{candidate} ~~his~~ next in seniority ^{is selected by} assumed charge, with all consequential benefits including the monetary benefits from that date. It is needless to say that those who are in the earlier selection committee should not be in the selection committee to be convened for fresh oral test that is to be conducted in regard to the applicant in pursuance of this order.

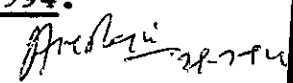
9. The O.A. is ordered accordingly. No costs.


(R. Rangarajan)
Member/A


(V. Neeladri Rao)
Vice-Chairman

Dated: the 28th day of July, 1994.

mhb/


Deputy Registrar(J)CC

To

1. The General Manager,
Union of India, S.C.Rly, Secunderabad.
2. The Chief Personnel Officer, S.C.Rly, Secunderabad.
3. One copy to Mr.G.Bikshapathy, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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PF/Amr 24/7/94

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. R. RANGARAJAN : M (J.D.M.)

DATE: 28-7-1994

ORDER/JUDGMENT

N.A.No./R.A/C.A.No.

C.A.No. 768/92 in
(P.A.No. (W.P.NO)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

