

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NOS.1730/97, 327/98 and 476/98

DATE OF JUDGMENT: 18th AUGUST, 1999

BETWEEN:

O.A.NO.1730/97

1. P.Mallikarjuna Rao,
2. T.Sri Venkata Murali Krishna,
3. P.Venkat Pandu Ranga Rao,
4. A.Ramanjaneyulu.

.. APPLICANTS

O.A.NO.327/98

1. G.Koteswara Rao,
2. V.Satyanarayana,
3. A.S.Rajendra Prasad,
4. K.V.Prasad,
5. T.Bhanumurthy,
6. K.Appa Rao.

.. APPLICANTS

O.A.NO.476/98

1. D.R.K.Reddy,
2. Syed Muneer Ahmed.

.. APPLICANTS

AND

1. The Sr.Divisional Personnel Officer,
South Central Railway,
Vijayawada Division,
Vijayawada,
2. The Divisional Railway Manager,
S.C.Railway, Vijayawada Divn,
Vijayawada.

.. RESPONDENTS IN ALL THE O.As

COUNSEL FOR THE APPLICANTS: Mr. K.SUDHAKAR REDDY

COUNSEL FOR THE RESPONDENTS: Mr. N.R.DEVARAJ, Sr. C.G.S.C.
in O.A.No.1730/98

Mr.D.F.Paul, Addl.CGSC in
O.A.No.476/98

Mr.K.Siva Reddy, Addl.CGSC in
O.A.No.327/98

CORAM:

HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

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JUDGMENT

ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.K.Sudhakar Reddy, learned counsel for the applicants in O.A.Nos.1730/97, 327/98 and 476/98, Mr.N.R.Devaraj, learned standing counsel for the respondents in OA 1730/97, Mr.K.Siva Reddy, learned standing counsel for the respondents in OA 327/98 and Mr.D.F.Paul, learned standing counsel for the respondents in OA 476/98.

2. The contentions raised in these three OAs are same so also the relief asked for. Hence all the 3 OAs are disposed of by a common judgment.

3. There are 4 applicants in OA 1730/97. In OA 327/98 there are 6 applicants. In OA 476/98 there are 2 applicants.

4. All the applicants in all the 3 OAs pray for declaration that the written examination held on 27.7.97 and 20.9.97 for promotion to the post of HTTE in the scale of pay of Rs.5000-8000 (RP) is illegal and arbitrary and for consequential direction to the respondents to conduct a fresh examination in objective type as per the syllabus prescribed.

5. The facts of this case are as follows:-

The applicants in all the 3 OAs are TTEs who were in the scale of pay of Rs.1200-2040 (RSRP)/Rs.4000-6000. They appeared for selection to the post of HTTE in the



scale of pay of Rs.1400-2300 (RSRP)/Rs.5000-8000. A written examination was held on 27.7.97 and a supplementary examination on 20.9.97 for filling up 60 posts of HTTEs which are declared as selection posts. All the applicants in these OAs have failed to qualify in the selection. Hence they were declared as unsuccessful in the examination for promotion to the post of HTTE. Aggrieved by the above they have filed these OAs for the relief as indicated above.

6. The contentions raised by the applicants in all the 3 OAs are as follows:-

(i) As per Railway Board's letter dated 17.4.84 (Serial circular No.49/84) enclosed as Annexure-III to the reply, the applicants were to be examined asking only objective type of questions as they belong to the old age group and their capacity to answer the written paper gets reduced and they have adequate knowledge of work gained through their experience. But the question paper set for the examinations held on 27.7.97 and 20.9.97 was not with objective type questions but essay type questions. Hence the examination was conducted in violation of the Railway Board's circular referred to above.

(ii) The questions asked in the question paper are out of syllabus. For example, the questions like Crisis Management, details about M.R.Trains and reporting time etc., are not in consonance with the syllabus. Hence the question paper set was beyond the purview of the ~~examinees~~ ^{syllabus} and hence has to be set-aside.

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(iii) The third and the last contention which is argued vigorously is that the question paper set for the examination is not objective type but of ~~a~~ essay type questions. But in the previous examination held in the year 1992, 1994 and 1996, only objective type of questions were asked for. Hence the applicants were of the opinion that only objective type questions would be asked for and not essay type questions. Hence they were not prepared for writing the essay type questions in the examination. No adequate caution was also given by the respondents to the effect that essay type questions would be asked for in the examination to be held on 27.7.97 and 20.9.97 even though objective type questions were asked in the previous examinations. In view of that, they could not write the examination satisfactorily which resulted in ^{their} failure in that examination. Hence on that score itself, the examinations conducted on 27.7.97 and 20.9.97 are liable to be set-aside.

7. In the reply, the respondents submit that the highest grade selection post in the ticket checking category is CTI which is in the scale of pay of Rs.2000-3200/Rs.6500-10500. The Railway Board's letter dated 17.4.84 (Serial Circular NO.49/84) (Annexure III to the reply) is to be enforced only in the case of the highest grade selection post namely CTI and not in the lower grade selection post. HTTE being a lower grade selection post lower to the highest grade selection post of CTI, the said circular is not applicable. Hence asking ^{essay} type questions in that examination ~~as was done in the examination held on~~



27.7.97 and 20.9.97 is not violative of the Railway Board's circular dated 17.4.84. The respondents submit that the questions set for the examination is within the syllabus. The reported out of syllabus questions such as reporting time, crisis management, M.R.Trains etc., are of general nature which ^aticket checking staff must be knowing as they are closely associated with this aspect. Without the knowlege of the above items, they will not be able to discharge their duties as ticket checking staff effectively. Hence there is no irregularity in asking such questions in the selection grade post of HTTE which is a middle supervisory cadre post. Without knowing the objects of those concepts, the applicants may not be in a position to discharge their duties as HTTE effectively. Hence they submit that there is no question of asking beyond the prescribed syllabus.

8. The respondents produced the question papers set in the written examinations held on 29.11.92 and 9.1.1993. A perusal of those questions papers leads us to come to the conclusion that they are all essay type questions. In the examination held on 11.12.94 there are questions to fill up the blanks, short notes questions and also objective type questions. In the examination held on 11.2.95 there were questions like filling up blanks, short answers on few topics and also one word questions on refunds for sleeper class tickets and questions to state whether statements are 'correct' or 'incorrect'. In the written examination held on 15.6.96, there were essay type questions and also objective type questions. In the written test held on 13.7.96 there were essay type questions as well as

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objective type questions. In the examination conducted on 27.7.97 all the questions were of essay type. In the examination conducted on 20.9.97 the questions were also essay type questions.

9. They also produced a note dated 7.11.92 in regard to nomination of the Committee Members and also nomination of the officers to set the question papers for the written examination.

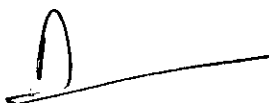
10. They have also produced the letter of DRM, Vijayawada addressed to CPO of Railways dated 21.9.94 wherein the DRM recommended modified form of selection by perusal of service records for filling up 82 vacancies of HTTE posts assessed as on 20.7.94 for filling them up. However, it was replied by the CPO that the written examination can be modified to Aptitude test/Objective type test instead of modified form of selection by perusal of service records as suggested by DRM.

11. With the above documents, the learned counsel for the respondents submits that the objective type questions were asked only for the year 1994 as at that time there were number of vacancies to be filled and the post of HTTE is having interface with the public and hence it was thought necessary to expedite filling up the vacancies. In that context, DRM asked the CPO to conduct the selection by the modified selection and the CPO had permitted ~~to~~ the modification to that of Aptitude test/objective type test. In view of the above, in the question papers set in 1994 and 1995, objective type questions were asked after

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obtaining proper approval from the Headquarters. Hence the selection held in those years cannot be quoted as precedence for asking objective type questions even in the selections held on 27.7.97 and 20.9.97. The selections held in the years 1992 and 1996 i.e, earlier to the present selection, were not of objective type and that system was followed in the present selections held on 27.7.97 and 20.9.97 and hence no irregularity was committed by the respondents. The applicants cannot demand a question paper which is to their liking and the question paper as per the prescribed syllabus has to be set which was correctly done in the present selection.

12. We have heard both the parties. The demand of the applicants to set only objective type questions for the HTTE selection in view of the Railway Board's letter dated 17.4.84 (Serial Circular NO.49/84) is not in order. The Railway Board had permitted the objective type questions only for the highest selection posts in the cadre. The highest selection post in this cadre is that of CTI in the scale of pay of Rs.6500-10500. HTTE is not the highest selection grade post in the cadre. Hence the said circular dated 17.4.84 is not applicable to the present selection. The Circular dated 17.4.84 was issued in order to enable the old aged group candidates to write the answer papers comfortably as their capacity is reduced due to the advanced age. Those who appear for HTTE selection cannot be treated ^{to} be in the group of advanced age. Hence setting of question paper asking essay type questions is prohibited only to the highest grade selection post in a category and that circular in no way violated in the present selection.

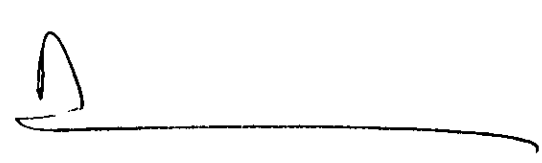


13. The applicants submitted that some out of syllabus questions were asked for. The respondents in their reply had clearly stated that some of items like Crisis Management, details about M.R.Trains and Reporting Time etc. are relevant topics for selection to the post of HTTE. An HTTE is closely associated with the crisis management whenever an emergency takes place either in the station sections or in the mid sections and he should be prepared to tackle such emergencies. Being a Railway official on duty he cannot say that he is in no way connected with the emergencies especially emergencies like accident, alarm chain pulling. Such events take place when checking staff are on duty and they have to give suitable instructions to the concerned to control and tide over the situation. Similar view was taken by us in some other OAs also. Similarly, reporting time of passenger is another point to be kept in mind for checking reservation chart. Punctuality is also one of the important items which should receive the attention of the ticket checking staff. We have also perused the question paper set for the selection held on 27.7.97 and 20.9.97. The questions asked are more or less on the same pattern as was set in the previous examinations held in the years 1992, 1995 and 1996. The applicants have not produced any syllabus in this connection. It is only their verbal assertion that the questions asked for do not adhere to the prescribed syllabus. A perusal of the various question papers set from time to time and also after hearing the respondents, we come to the conclusion that no question had been asked which can be considered as out of syllabus compared to the duty list of the applicants herein. Hence the second

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contention of the applicants is also to be rejected.

14. The third contention of the applicants is that the questions asked in the year 1997 do not tally with the questions asked in the previous years as in the previous years, objective type of questions were asked. They have given a short synopsis of type of questions asked in the years 1992, 1994 and 1996. In the years earlier to 1996 the questions asked, in our opinion, after perusal of the question paper, are of essay type combined with some questions on objective type. In the year 1994 it was objective type for which proper approval had been obtained to modify selection as indicated in the earlier paragraph. The reasons for modification has been explained fully. The modification was considered essential as there were number of HTTE posts to be filled and without filling up the posts, dealing with the public, ^{would} ~~will~~ not be satisfactory. In the interest of public, a one time exception was given. The Railways cannot neglect public interest and follow a rigid rule when necessity arises. In that context, giving some relaxation to the setting of the question paper for HTTE in the year 1994, is unavoidable and correctly the modification ^{has} ~~had~~ been given by the Headquarters. The question paper set in the years 1992 and 1996 is more or less on the same lines as that of the question paper set in the year 1997. Hence the applicants in all the three OAs cannot have any grouse in that aspect. However, we would only caution the respondents that if any variation compared to the previous selection is going to be made in setting the question paper ^{for} ~~in~~ future selections, the same should be informed in advance to the candidates. Further, it is



suggested that the respondents may also issue a notification before any selection test, the type of questions that will be asked for and also syllabus that will be followed so as to enable the examinees to come prepared for the selection.

15. The applicants in all the 3 OAs have failed in the selection. If they have made out a case stating that in case objective type questions are asked for in the examinations held on 27.7.97 and 20.9.97 they would have passed the examination, their cases can be considered for giving some relief. But no definite answer can be given in this connection as the respondents in their reply in OA 1730/97 have stated that all the 4 applicants in that OA did not qualify for being called for viva-voce even after giving notional seniority marks in the earlier selection. The applicants in OA 327/98 also did not qualify in the written examination held on 29.11.92 and 10.12.94 and 15.6.96 even with the addition of notional seniority marks. Similarly, the two applicants in OA 476/98 also did not qualify in the earlier selections held on 10.12.94 and 15.6.96 even after adding the notional seniority marks. From the above, it may be possible that the applicants herein may not possess adequate knowledge for qualifying in the HTTE examination. Hence a conclusion can be drawn that even if the applicants were asked to answer only objective type questions in the examinations held on 27.7.97 and 20.9.97, there may be a possibility that the applicants may not qualify in the examination.

16. In view of the above discussions, it is opined that the applicants have not made out a case for granting

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