

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.116/2000

Date of order: 13.9.2002

1. Ramswaroop Meena, S/o Sh.Chaganlal Meena, Goods Supervisor under S S Ajmer, W.Rly.
2. R.P.Jain, S/o Sh Chhaju Lal Jain, Head Goods Clerk, under C C W, Ajmer, Western Rly.
3. A.D.Baijal, S/o Sh.Puroshattam Das Baijal, Head Goods Clerk, under S S Ajmer, Western Railway.
4. Vishnu Gopal Bijawat, S/o late Bhagwan Dasji, Head Goods Clerk, under C C W, Ajmer, Western Rly.
5. Jangliram, S.o Shri Hargovind Meena, Head Goods Clerk under C C W Ajmer, Western Rly.
6. Vishnu Ram Chandani, S/o Mirchu Mal, Head Goods Clerk under S S Ajmer, Western Rly.

...Applicants

vs.

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.

...Respondents.

Mr.C.B.Sharma - Counsel for applicants.

Mr.U.D.Sharma - Counsel for respondents

CORAM:

Hon'ble Mr.H.O.Gupta, Administrative Member

Hon'ble Mr.M.L.Chauhan, Judicial Member.

PER HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

Applicants six in numbers have filed this O.A thereby praying for quashing the impugned order dated 4.11.99 (Annex.A1) vide which the result of written examination for the post of Chief Goods Clerk was declared with further prayer that the

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respondents may be directed to conduct selection for the said post as per rules in force by following due procedure specially regarding setting of objective type question in the written test.

2. The respondents, vide Annx.A3 dated 16.3.99, notified 17 vacancies of Chief Goods Clerk in the grade of Rs.5500-9000. It was also mentioned that the selection will be made on the basis of written examination from amongst the candidates as mentioned in Annx-A of the eligibility list. The applicants name also appeared in the eligibility list. Written test was held on 3.7.99. The applicants could not qualify in the written examination which was notified vide letter dated 4.11.99 (Annx.A1), hence this application. Alongwith this application, the applicants has also annexed the question paper dated 3.7.99 (Annx.A4) which is descriptive in nature. The main case of the applicant is that as per Railway Board's circular dated 17.4.84 (Annx.A2) the question paper should contain objective type of questions carrying at least 50% of the marks. Since the question paper was contrary to the aforesaid circular, as such the result of the written examination declared vide Annx.A1 is liable to be quashed and set aside. It is also stated that the respondents have not conducted the selection year-wise for the last 7 years and by clubbing the vacancies together for selection, the respondents expanded the zone of consideration. It is further stated that applicant No.1 has also filed representation Annx.A5, immediately after the examination which has not been decided by the respondents so far.

3. By filing counter, the respondents have denied the allegations made by the applicants. It is stated that as per the Railway Board letter dated 17.4.84 (Annx.A2), objective type question paper may be set for about 50% total marks of the

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written test for promotion to the highest grade selection post in a category. According to the respondents, the highest grade selection post in the category is the post of Commercial Supdt. (Goods, Parcel, Luggage & Ticketing) in the grade of Rs.6500-10500 and not the post of Chief Commercial Clerk in the pay scale Rs.5500-9000. Thus, according to the respondents, the circular Annx.A2 is not applicable in the instant case. Regarding clubbing of vacancies, it has been stated that the applicant has not raised such objection at any stage. The respondents also denied the receipt of any such representation filed by applicant No.1.

4. We have heard the learned counsel for the parties and also gone through the record.

5. The only point which requires our consideration is as to whether the Railway Board circular dated 17.4.84 which provides that wherever a written test is held for promotion to the highest grade selection post in a category, objective type questions may be set for about 50% of the total marks in the written test is applicable. In order to appreciate the arguments of both the sides, we think it appropriate to extract the relevant portion of Railway Board circular dated 17.4.84 which reads as under:

....It has now been decided that wherever a written test is held for promotion to the highest grade selection post in a category, objective type questions may be set for about 50% of the total marks for the written test. The remaining questions could continue to be of the (conventional) narrative type. It may be made clear here that the figure of 50% for objective type of questions is intended to be for guidance only, it should not be taken as constituting an inflexible percentage.

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6. Based on the aforesaid circular, the counsel for the applicant contended that according to the circular there should be objective type of questions carrying 50% of the total marks as the post of Chief Goods Clerk carrying pay scale 5500-9000 is the highest post for which written examination is prescribed. He further argued that no doubt there is a post of Commercial Supdt in the grade of Rs.6500-10500 but for this post the written examination is not prescribed and only interview is enough, therefore, the highest post as per the aforesaid circular should be understood as the post of Chief Goods Clerk. Per contra, it has been argued on behalf of the respondents that the post of Commercial Supdt. in the grade Rs.6500-10500 is the highest post and for this post whenever a written test is held then it should necessarily provide objective type of questions carrying 50% of marks and the post of Chief Goods Clerk, which is in the lower scale Rs.5500-9000 is not the highest post. Thus, according to the counsel for the respondents, the aforesaid circular is not applicable in the instant case.

7. The question paused for our consideration requires no detailed examination, as the matter is no longer res-integra. Similar question came for consideration before this Bench in O.A No.255/2000, Sheorti Lal Sharma & Ors. Vs. UOI & Anr, decided on 16.7.01. In this O.A, the circular of the Railway Board dated 17.4.84 was under consideration on the basis of which letter dated 7.12.90 containing promotion policy based on this letter was issued. In this O.A, selection test based on the written examination for the post of checking branch consisting of HTTE, TNCR, etc. scale Rs.1400-2300 was under challenge. The highest post in this category was that of Chief Ticket Inspector in the scale Rs.2000-3200. The contention put

forth on behalf of the applicants was that since the post of Checking Branch consisting HTTE/TNCR scale Rs.1400-2300 is the highest post for which written examination has been prescribed as such the question paper should have provided objective type of questions carrying 50% marks, though, admittedly the highest post in the category is Chief Ticket Inspector in the scale Rs.2000-3200 for which no written examination was prescribed. The stand taken by the respondents was that the post of Chief Ticket Inspector in the grade Rs.2000-3200 is the highest post and for this post where a written test is held then it should necessarily provided objective type of questions carrying 50% of the marks and the post of Head TTE grade Rs.1400-2300 is not the highest post. Negating the contention raised on behalf of the applicants, this Tribunal held that the interpretation of the department regarding the said policy is more plausible and for the purpose of applying the aforesaid circular dated 17.4.84 and para 3.6.1 of promotion policy dated 7.12.90, the post must be highest post in a particular department and if a written examination is held the question paper should necessarily provide objective type of questions carrying 50% of the marks and not otherwise and any other interpretation would definitely result in absurd conclusion.

8. Thus, the matter is squarely covered by the decision of this Bench in O.A No.255/2000 which is binding on us and as such the applicant has no case.

9. Yet for another reason, the applicants have no case whatsoever. As per letter dated 16.3.99 (Annex.A3), the selection for the post of Chief Goods Clerk was to be made on the basis of written examination. The applicant took a chance to get themselves selected by appearing in the written test held on 3.7.99. Only because, they did not find themselves to

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have emerged successful in the written test as declared vide Annx.A1, they chose to file this O.A. It has been held by Hon'ble Apex Court in number of decisions that if a candidate takes a calculated chance and appears at the interview/examination, then only because the result of such interview/examination is not palatable to him, he cannot turn round and subsequently said that the process of interview and written test was unfair or Selection Committee was not properly constituted. In the instant case also, the applicants appeared in the examination without any protest and when they found that they failed in the examination, they have filed this O.A.

10. In view of the foregoing reasons, this Application must fail and is accordingly dismissed with no order as to costs.



(M.L.Chauhan)

Member (J).



(H.O.Gupta)

Member (A).