

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 04th day of March, 2011

ORIGINAL APPLICATION No.282/2007

CORAM :

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

Sunil Kumar Sharma,
Personal Assistant to
Chief Electrical General Engineer,
NWR, Jaipur.
R/o 118/111, Agarwal Farm House,
Mansarovar, Jaipur.

... Applicant

(By Advocate : Shri Shailendra Srivastava)

Versus

1. Union of India through
General Manager,
North Western Railway,
Hasanpura,
Jaipur.
2. Chief Personnel Officer,
North Western Railway,
HQ at Jaipur.

... Respondents

(By Advocate : Shri Hawa Singh)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief :

"a) That it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to quash and set aside the question paper (Ann.A/1) and the order dated 12.7.2007 (Ann.A/2) by which result of successful incumbents in written test based on impugned question paper was published.

b) That by an appropriate order or direction respondents may be directed not to proceed further for preparing any panel of P.S.II based on said written test in question in the instant case.

c) This Hon'ble Tribunal may also direct the respondents to seek and produce opinion of the experts in this matter."

2. Briefly stated, facts of the case are that the respondents issued a notification dated 7.3.2007 (Ann.A/3) for filling up 20 posts of Personal Secretary Grade-II in the pay scale of Rs.6500-10500, out of which 15 posts were meant for general category, 3 for SC & 2 for ST category. As per the eligibility criteria stipulated in the aforesaid notification, persons in the feeder grade of Rs.5500-9000 were made eligible and the candidates were required to appear in the written examination on 7.4.2007. Alongwith the said notification, the respondents have also annexed the eligibility list containing the names of 22 persons, who were found eligible to appear in the aforesaid selection test. The name of the applicant also finds mention in the said eligibility list. It may also be stated that alongwith the said notification the respondents have also annexed copy of the syllabus. The applicant also appeared in the said selection test but he could not obtain the minimum 60% marks in the written test and thus could not qualify the test. Result of the written examination was declared on 12.7.2007 (Ann.A/2) and only 18 candidates were found suitable who were called for viva-voce scheduled to be held on 9.8.2007.

3. Grievance of the applicant in this case is that near about 33% questions in the question paper were beyond the ambit of the syllabus and as such the entire examination should have been cancelled or a lenient method should have been adopted for marking in the examination so that the persons who have appeared in the examination could have qualified the aforesaid examination by obtaining the requisite minimum qualifying marks i.e. 60%. It is under these circumstances the applicant has prayed that the question paper (Ann.A/1) and the result (Ann.A/2) may be quashed and set aside. It is on the basis of

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these facts the applicant has filed this OA thereby praying for the aforesaid relief.

4. The questions which, according to the applicant, were out of syllabus having been mentioned in paras 4.7 & 4.8 of the OA. The applicant has stated in para 4.7 that the questions mentioned in the said para relate to pay fixation, family pension, stepping up of pay & General knowledge and were not concerned with the subject of the syllabus, whereas in para 4.8 the applicant has stated that the questions mentioned in this para, under the heading of 'Part-II', also relate to stepping up of pay, seniority and transfer policy of the office bearers of the recognized trade unions etc., which should not have been a part of the question paper. In sum and substance, the main contention of the applicant is that only 66% of the questions were from the syllabus and it was impossible for him to secure 60% marks out of 66 to qualify the written examination.

5. Notice of this application was given to the respondents, who have filed their reply. In the reply, the respondents have stated that the written examination was conducted as per the syllabus circulated alongwith the notification. It is further stated that the questions which are alleged to be out of syllabus were of general type which are expected to be known to the staff to be posted in the post of PS-II, which is amongst highest level Group-C posts. The respondents have further stated that further promotional avenue from the post of PS-II is in the Personnel Department Officers cadre and as such the employees to be posted as PS-II should be aware to the pattern and rules of the Personnel Department which were included in the syllabus issued alongwith the notification. The respondents have further stated that till the date of declaration of the result of the written examination i.e. upto 12.7.2007 no representation against the above written test was received and as such the result of the written examination was declared on 12.7.2007. The respondents have further categorically stated that the questions regarding which grievance has been made by the applicant in para 4.7 of the OA are the questions which

are frequently used in the railways working and it is expected that an employee holding the rank of PS-II should know the meanings of all these terms. It is further stated that question nos.10, 12 & 30 were taken from the subject of manpower planning which is within the scope of syllabus, whereas question nos. 13, 14 & 41 were selected from the subject 'grievance redressal machinery' which includes PNM, JCM etc. and thus within the syllabus circulated. Besides, question No.36 is from leave rules and thus within the syllabus circulated. Regarding para 4.8 of the OA, the questions under Part-II, the respondents have stated that all the questions about which grievance has been made, were from the prescribed syllabus and that question No.3(4) was also selected from the chapter 'grievance redressal machinery', whereas question No.3(3) was of general type.

6. The applicant has not filed any rejoinder.

7. We have heard learned counsel for the parties and gone through the material placed on record. We are of the view that the applicant has not made out any case for the grant of relief for more than one reason. From the material placed on record, it is evident that eligibility list of 22 persons, including the applicant, who were held eligible for appearing in the selection test for the post of PS-II was prepared. Out of 22, 18 persons have qualified the examination. As such, contention of the applicant that 33% of the questions were out of syllabus and it was not possible to obtain 60% marks out of 66 cannot be accepted. As already stated above, out of 22 persons only 4 persons including the applicant have not qualified the test, whereas the remaining 18 persons have qualified the test. Thus, the aforesaid contention of the applicant cannot be accepted. That apart, pursuant to qualifying the written test, 18 persons were called for viva-voce and thereafter the respondents have prepared the panel for filling up the vacant posts on 1.8.2007, as is evident from the reply filed by the respondents.

8. The applicant has neither challenged the validity of the panel dated 1.8.2007 nor has impleaded the persons whose names have been included in the said panel and have subsequently been given appointment against the aforesaid post. As such, it is not legally permissible for us to quash the entire selection process especially when the applicant has not challenged the panel so prepared and the appointments so given to the empanelled persons pursuant to the aforesaid selection. Even on this ground and without going into the merit of the case, no relief can be granted to the applicant.

9. Viewing the matter from any angle, we are of the view that the applicant has not made any case for interference by this Tribunal. Accordingly, the OA stands dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

M.L.Chauhan
(M.L.CHAUHAN)
MEMBER (J)

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