
(2001) 07 AHC CK 0149
In the Allahabad High Court
Case No : C.M.W.P. No. 19974 of 1998

E.H. Khan and another	Vs	APPELLANT
Central Administrative Tribunal, Allahabad Bench and others		RESPONDENT

Date of Decision : 02-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 3 AWC 2210 : (2001) 90 FLR 554 : (2001) 3 UPLBEC 2592

Hon'ble Judges : Lakshmi Bihari, J;D.S. Sinha, J

Bench : Division Bench

Advocate : Ateeq Ahmad Khan, for the Appellant; Lalji Sinha, for the Respondent

Final Decision : Dismissed

Judgement

D.S. Sinha and Lakshmi Bihari, JJ.—Heard Sri Ateeq Ahmad Khan, the learned counsel appearing for the petitioners, and Sri Lalji Sinha, the learned counsel appearing for the respondent No. 2, at length and in detail.

2. By the Impugned order dated 12th March. 1998, the Central Administrative Tribunal, Allahabad Bench, Allahabad, the respondent No. 1, upheld the validity of the examination conducted by the respondent No. 2 on 10th January, 1998 for the purpose of recruiting Assistant Accounts Officer (Group B) wherein the petitioners also appeared but could not succeed.

3. Having failed to get through, the petitioners approached the respondent No. 1 and assailed the examination on two principal grounds, namely, (a) the examination was conducted beyond syllabus, and (b) the examination was biased.

4. Relying upon paragraph 204.2 of the Indian Railway Establishment Manual Vol. 1, Revised Edition, 1989, and in the absence of any material to the contrary produced by the petitioners, the respondent No. 1 has found as a matter of fact that the challenge of the petitioners that the examination was not held in accordance with the syllabus has no legs to stand.

5. The Rule 204.2 noticed by the respondent No. 1 provides that "The question paper for the written test should have a practical bias, i.e., It should be designed to test the ability of the candidates to tackle the practical problems they are likely to face rather than their theoretical knowledge. It is in view of this that no syllabus has been prescribed for the written examination except the written examination for the post of Assistant Personnel Officer and the Railways depending on the local conditions/practices should set the paper."

6. Neither it was nor it is disputed that Rule 204.2 applied to the examination in question also.

7. It is relevant to notice that in their reply before the respondent No. 1, the respondent No. 2 herein, pleaded in paragraph 3 (VIII) that the examination was conducted between 10.00 hours and 13.00 hours on 10th January, 1998, and the Financial Adviser and Chief Accounts Officer visited the examination hall at around 11.30 hours. He was there for about fifteen minutes and openly asked whether any clarification was needed by any candidate. At that point, nobody raised any issue on the question paper. Deputy Chief Personnel Officer/G also visited the examination hall. After the examination finalised at 13.00 hours, the answer books were collected and codified by the Deputy Chief Personnel Officer/G. The bundle was then sealed and handed over to the Financial Adviser and Chief Accounts Officer for evaluation the same day. Identical averments have been made in paragraph 10 of the counter-affidavit filed in this Court on behalf of the respondent No. 2. Today, there is no material to show that the averments made in paragraph 3 (VIII) of the reply filed before the respondent No. 1 or made in paragraph 10 of the counter-affidavit of respondent No. 2 filed in this Court have been controverted expressly or by necessary implication. Under these circumstances, it is not open to the petitioners to urge that the conclusion arrived at by the respondent No. 1 suffers from any infirmity.

8. Nothing has been brought to the notice of this Court which may form basis for upsetting the conclusion of the respondent No. 1 that the impugned examination was not held in contravention of the syllabus.

9. On the question of bias, the respondent No. 1 has come to the conclusion that the petitioners have miserably failed to prove the ulterior motive or special interest of the Railways against them or in favour of the selected candidates. The respondent No. 1 has also taken note of the averments made in paragraph 10 of the application of the petitioners filed before it which reads thus :

"That the petitioners had some inkling about the intentions of respondent No. 3 that he is interested in the selection of respondent Nos. 5, 6, 7 and 8, but since had no definite proof, therefore, they had not expressed anything."

10. In view of the above averments, the respondent No. 1 concludes that the petitioners admit that they have no definite proof regarding any bias against the applicants or any interestedness by the Railways in favour of the selected candidates.

11. The above conclusion of the respondent No. 1 has not been shown to suffer from any illegality.
12. The Impugned judgment dated 12th March, 1998, in the opinion of the Court, is perfect and not liable to be interfered with by this Court in exercise of its power of Judicial review under Article 226 of the Constitution of India.
13. The petition lacks merit. It is, accordingly, dismissed.
14. There is no order as to cost.