

(2020) 01 PAT CK 0188

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11861 Of 2018

Sanjay Kumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 10-01-2020

Acts Referred:

Indian Railway Establishment Manual 1989 — Rule 219(k)

Citation : (2020) 01 PAT CK 0188

Hon'ble Judges : Ashwani Kumar Singh, J;Partha Sarthy, J

Bench : Division Bench

Advocate : M.P. Dixit, S.K. Dixit, Sanjay Kumar Chaubey, Swastika, Shailendra Kumar, Amresh Kumar Sinha

Final Decision : Dismissed

Judgement

1. The present writ petition has been filed by the petitioner for quashing the order dated 27.02.2018 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short 'The Tribunal') in Original Application No. 050/000687/2017 whereby the prayer of the petitioner for quashing the order dated 18.10.2017 passed by the Respondent no. 5 whereby the written examination held on 20.09.2017 for promotion to the post of Junior Engineer (Electrical), Level-6 under 25% Limited Departmental Competitive Examination quota was cancelled, has been dismissed. The petitioner has also prayed for directing the respondents to publish final result of the written examination held on 20.09.2017 for promotion to the post of Junior Engineer under 25% quota.

2. The brief facts of the case are that:

(a) A notification dated 01.06.2017 was issued by the Respondent, East Central Railway, Danapur for filling up of four unreserved post of Junior Engineer (Electrical-TRS "M") against 25 % LDCE quota.

(b) After scrutiny of the application, a list of 34 eligible candidates was prepared.

(c) Out of 34 candidates, 32 appeared in the written test held on 20.09.2017.

(d) After the written examination was over, the answer-sheets were coded along with model answers and were handed over to the Evaluating Officer in sealed cover for evaluation.

(e) Vide order dated 18.10.2017, the authorities decided to cancel the said written examination and to conduct fresh examination.

(f) Being aggrieved by the aforesaid decision of the Respondent-East Central Railway, Danapur, the petitioner filed original application before the Tribunal.

(g) After hearing the parties, the Tribunal dismissed the original application filed by the petitioner vide impugned order dated 27.02.2018.

3. Mr. M.P. Dixit, learned counsel appearing for the petitioner challenging the impugned order dated 27.02.2018 submitted that the Tribunal has not applied its judicial mind while passing the impugned order towards the facts and the legal position referred by the petitioner. He submitted that Rule 219 (k) of the Indian Railway Establishment Manual, Vol. 1, 1989 (for short 'IREM 1989') empowers the General Manager being the Competent Authority to cancel examination but, not the Senior Divisional Personnel Officer, who has cancelled the examination in the present case. He contended that the Tribunal ought to have appreciated the fact that the cancellation of the examination was made by the respondents only in order to accommodate some candidates of their choice.

4. Per contra, Mr. Amresh Kumar Sinha, learned counsel appearing for the Railways submitted that the decision taken by the Respondent No. 5 to cancel the examination was taken after appreciating the entire facts and circumstances of the case. He submitted that the reference to the IREM 1989 by the petitioner to contend that only General Manager was Competent Authority to cancel examination is misconceived. He contended that after evaluation of the answer-sheets, the same were returned by the Evaluating Officer to the office of Sr. Divisional Personnel Officer along with mark sheets and as per the mark-sheets, it was noticed that out of 32 candidates, two had secured 100 marks. The question paper which was given to the candidates carried 50% objective type questions and 50% of the questions were subjective type. Since two of the candidates had secured 100 marks, both in objective and subjective type questions, the authorities suspected some foul in the written test held on 20.09.2017 and the Competent Authority decided to cancel the said written examination and to conduct the fresh examination. He contended that subsequently a fresh examination was also held on 11.11.2017 putting CCTV cameras in the examination hall. The petitioner also participated in the said examination along with other eligible candidates. No prejudice has been caused to the petitioner and he cannot have any grievance in respect of the cancellation of the earlier examination. He further contended that the decision to cancel the written examination was taken before decoding the answer sheets of the candidates. Thus, no one can claim that the same was done in order to help any

particular candidate.

5. We have heard the parties and carefully perused the record.

6. We find that there is nothing in the IREM 1989 on the basis of which, it can be said that it is only the General Manager is the Competent Authority to cancel examination. The stand of the Railway is that the question paper contained 50% objective type questions and 50% of the questions were subjective type. The scoring of 100% marks both in objective and subjective type questions by two candidates raised doubt upon the fairness of written test held on 20.09.2017. In order to eradicate the possibility of unfairness, if the respondents cancelled the written examination held on 20.09.2017 and conducted fresh examination, no fault can be found in the action of the respondents authorities.

7. It is not the case wherein the respondents have made any allegation against any of the candidate, who had appeared in the examination. The respondents doubted on the fairness of the conduct of the written examination. They are the best person to take any decision with regard to holding of an examination in a fair and impartial manner. The scope of judicial review, in such matters, are very limited. In absence of any arbitrariness or illegality, the Court would not interfere with any decision taken by the authority whereby they have decided to cancel the examination. In such cases, no motive can be attributed behind the decision of the respondents. The allegation made by the petitioner that the decision was taken in order to favour some candidates is also without substance. It is the specific stand of the respondents that the decision for cancellation of the written examination was taken before the answer sheets were decoded. They have categorically stated in their written statement before the Tribunal that the answer sheets are still in coded form and the name of the successful candidates in the examination held on 20.09.2017 is not known to anyone.

8. We are of the opinion that the Tribunal has rightly dismissed the original application filed by the petitioner as no prejudice was caused to any of the candidates, who had appeared in the written test held on 20.09.2017 and the decision to cancel the examination was taken in order to maintain impartiality and transparency.

9. The writ petition being devoid of any merit is dismissed.