

Director-General, Telecommunication and Another

Vs

T. N. Peethambaram

Civil Appeal No. 3141 of 1986

(M. P. Thakkar, K. N. Singh JJ)

19.09.1986

JUDGMENT

THAKKAR, J. -

1. 'Fails' in one subject, but 'passes' the examination ! It is not a tongue-in-the-cheek remark, for, passing an examination does not mean passing or securing the minimum passing marks in each subject or item of examination provided the candidate secures the minimum passing marks in aggregate, and he is entitled to be declared as having passed the examination according to the Central Administrative Tribunal (Tribunal hereafter), Hyderabad, which has upheld the aforesaid proposition canvassed by the respondent. The validity of this view is in focus before this Court in the present appeal by special leave.

2. Rule 2 in Appendix III of the Telegraph Engineering Service (Group 'B') Recruitment Rules, 1981, for Limited Departmental Qualifying Examination, in the context of which the controversy has arisen, reads thus :

2. Limited Departmental Competitive Examination :

#(i)(a) Advanced Technical Paper - General .. 100 marks (b) Advanced Technical Paper - Special .. 100 marks (c) General Knowledge and Current Affairs .. 50 marks (d) Assessment of Confidential Reports .. 75 marks##

(ii)(a) The minimum pass marks in the examination shall be 50 per cent for general candidates and 45 per cent for Scheduled Castes and Scheduled Tribe candidates.

This rule was interpreted by the concerned department as requiring the candidates to secure 50 per cent minimum pass mark for the general candidates and 45 per cent minimum pass marks for Scheduled Castes and Scheduled Tribes in "each" of the four subjects or items. The Tribunal has taken the view that the department was wrong in so interpreting the rule and has formed the opinion that on a true interpretation, the requirement as regards securing minimum pass marks in the examination by the candidates concerned is referable to "aggregate" marks and not to each of the four subjects or item of the examination. It has been overlooked by the Tribunal that the 'rule' does not employ the expression 'aggregate', and that it is impossible to inject the said word in the rule in the disguise of interpretation, as it would lead to absurd results. An illustration will make the 'obvious' point 'more obvious'. The illustration might be viewed in the scenario of a medical degree examination. Can one who secures zero, say in surgery, but secures high marks in the other papers, so that the minimum aggregate standard is attained, be declared to have passed the examination ?

Such an interpretation would result in havoc and have catastrophic consequences. Examining the examination rule in the present context, the nihilist result is equally conspicuous. Say, a candidate secures zero in the first paper of Advanced Technology (General), or second paper of Advanced Technology (Special), but secures full marks in the rest of the subjects (or items). He would be securing (0 plus 100 plus 50 plus 75) or (100 plus 0 plus 50 plus 75) (equal to 225 i.e. 56.25 per cent) minimum passing marks and would be entitled to be declared as having passed and having become entitled to the outflowing preferential treatment. Similar would be the outcome also in a case where a candidate's Confidential Record is bad and he earns no point in that item. Such an interpretation would thus be self-defeating and lead to absurd results, and accordingly, would be contrary to well established canons of construction, not to speak of a common-sense-oriented approach. Since the rule does not specify a different passing standard for 'each' subject, the prescribed minimum passing standard must be the yardstick to apply to each of the subjects or items. Minimum must mean a minimum in each, as much as, minimum in aggregate. The Tribunal should not have therefore upset the decision of the concerned department and imposed on the department the mistaken interpretation propounded by it. In the result, the decision of the Tribunal must be reversed.

3. The appeal is, therefore, allowed accordingly. There will be no order as to costs.

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