

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

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O.A. No. 476/98

T.A.No.

Date of decision 14-10-98

Sh.Paras Nath Singh

... Petitioner

Sh.S.C. Luthra

... Advocate for the  
Petitioner(s)

VERSUS

UOI & Ors

... Respondents

Sh.V.S.R. Krishna

... Advocate for the Respondents

CORAM

The Hon'ble Smt.Lakshmi Swaminatha, Member (J)

The Hon'ble Shri K.Muthukumar, Member (A)

1. To be referred to the Reporter or  
not?:

Yes

2. Whether it needs to be circulated to  
other Benches of the Tribunal?

No.

*Lakshmi Swaminathan*  
(Smt.Lakshmi Swaminathan)  
Member(J)

Central Administrative Tribunal  
Principal Bench

O.A. 476/98

New Delhi this the 14 th day of October, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member(J).  
Hon'ble Shri K. Muthukumar, Member(A).

Paras Nath Singh,  
S/o Shiv Dayal Singh,  
Mate (Transport Mate),  
D.M.S. West Patel Nagar,  
New Delhi.

... Applicant.

By Advocate Shri S.C. Luthura.

Versus

1. Union of India through  
its Secretary,  
Ministry of Agriculture,  
Krishi Bhawan, Rafi Marg,  
New Delhi.
2. Delhi Milk Scheme,  
through its General Manager,  
West Patel Nagar,  
New Delhi.

... Respondents.

By Advocate Shri V.S.R. Krishna.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the memorandum issued by the respondents dated 26.2.1998 by which they had directed one Shri Subhash Kotari to appear in the test for selection to the post of Lower Division Clerk (LDC).

2. We have heard Shri S.C. Luthura, learned counsel for the applicant and Shri V.S.R. Krishna, learned counsel for the respondents and perused the records.

3. The main contention of the applicant is that his name is in the select list of successful candidates prepared on the basis of the competitive examination held on 31.10.1982 for appointment to the post of LDC. According to him, the select list of successful candidates was published on

22.6.1983 and the name of the applicant appears at Serial No. 18 in that list. Shri S.C. Luthra, learned counsel, submits that so long as the candidates from this panel have not been appointed, the panel will have to be operated. He, therefore, submits that since the applicant has still not been appointed as LDC even though, according to him, his name appears in the select list, the respondents cannot hold a fresh selection. The learned counsel submits that under the relevant Recruitment Rules for promotion to the post of LDC, there is a provision of 50% by promotion, failing which by direct recruitment. Out of this quota for promotion, 40% by promotion is from amongst Tally Clerks with 5 years regular service in the grade and who are matriculates, subject to the conditions that on promotion they shall qualify at the speed of 30 words per minute in typewriting within a period of one year. If they do not qualify in the typewriting test, they were not entitled for increment and confirmation in the post of LDC. Learned counsel contends that, on the other hand, in the 10% promotion by way of competitive test from amongst Group 'D' employees like the applicant, under the Rules no requirement of passing typewriting test was prescribed and the respondents cannot put this as a condition. He, therefore, submits that the circular issued by the respondents dated 16.10.1982 prescribing typewriting test as part of the conditions for promotion of Class IV employees as LDCs is contrary to the rules and not applicable to the applicant. In the circumstances, he submits that the list of candidates who have secured pass marks as prepared by the respondents on 15.2.1983 or 22.6.1983 is the select list and with no question of subjecting these candidates for any typewriting test.

4. The Tribunal by order dated 10.3.1993 have restrained the respondents from filling the posts of LDC in

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pursuance of the impugned memorandum dated 26.2.1998, if not already filled. This interim order has been continued till date. (15)

5. The respondents in their reply have submitted that the applicant secured 38 marks in the written test conducted on 31.10.1982. He was called for typing test but could not qualify the same. According to them, the applicant's name is not in the panel of select list since he could not qualify the typing test held on 3.7.1983 and he had not even appeared in the subsequent test. They have submitted that the list relied upon by the applicant is not the select list and the select list of 4 candidates was published by them on 25.6.1984. Shri V.S.R. Krishna, learned counsel, has, therefore, submitted that since the applicant does not figure in the select list, the applicant has no claim for appointment in the post of LDC.


6. The applicant's claim that his name appears in the select list of successful candidates dated 22.6.1983 in the list of persons who have completed the test in the year 1981-82 is not substantiated from the other documents on record. Shri Luthra, learned counsel, also referred to the letter dated 15.2.1983 where the applicant's name is shown at Serial No.18. He has secured 38 marks and the list of 24 persons has been arranged in the order of merit. In this letter, the approval of the General Manager had been obtained that, along with those persons who have secured 40 or more marks other with 33 or more marks should also be put to the typing test. In the list issued on 22.6.1983, the 24 officials, including the applicant had been called to appear in the typing test to be held on 3.7.1983. Thereafter, the respondents have issued the select list of 4 candidates on 25.6.1984 in which the applicant's name does not figure. As


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the applicant's name is not in the "select list", the question of appointing him from the list dated 22.6.1983 as LDC which is only a list calling him for appearing in the typing test is untenable. 16

7. The other contention raised by Shri S.C. Luthura, learned counsel, that the respondents could not have called the applicant for the typing test because such a provision is not in the recruitment rules for promotion of Group 'D' employees in the 10% quota which is by way of competitive test is also without merit. The circular dated 16.10.1982 read with the letter dated 15.2.1983 is not contrary to the recruitment Rules. Apart from this, the applicant has himself appeared in the typing test but has admittedly failed and he cannot now challenge the requirement of the typing test at this stage. It is also relevant to note that the applicant has not challenged the validity of the circular dated 16.10.1982. This objection which is a belated after thought is accordingly rejected.

8. In the above facts and circumstances of the case, we find no merit in this application. The same is accordingly dismissed. No order as to costs.

  
(K. Muthukumar)  
Member(A)

  
(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'