

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. No. 1081 of 1988

New Delhi, this the 1st Day of December, 1993.

HON'BLE MR B.N.DHUNDIYAL, MEMBER(A).

HON'BLE MR B.S.HEGDE, MEMBER(J).

Virender Pal Singh  
s/o Shri Ram Prasad Singh  
Operating Branch, Northern Railway  
Head Quarters, Baroda House,  
New Delhi. ... Applicant.  
(through Mr P.T.S.Murthy, Advocate).

vs.

1. Union of India, through the Secretary, Ministry of Railway, (Railway Board) Rail Bhawan, New Delhi.
2. Chief Personnel Officer, Northern Railway, Baroda House, New Delhi.
3. The General Manager, Northern Railway, Baroda House, New Delhi. ... Respondents.

(through Mr K.K.Patel, Advocate).

O R D E R (oral)

B.N.Dhundiyal, Member(A).

Heard the learned counsel for the parties. Admitted facts of the case are these. The applicant Virender Pal Singh is at present working as a Typist in the Operating Branch of Northern Railway, New Delhi. Initially, he had been appointed in 1973 against a Class-IV post and was promoted to the post of Typist in 1978. He appeared in the qualifying test on 23.10.1978, 26.4.1981 and 24.2.1985. Since he failed to qualify, his services are yet to be regularised. Though it has been contended by the applicant that he had earlier qualified but could not be given a

regular post due to lack of vacancy but this is not borne out by the subsequent clarification given by the respondents.

2. The only point for consideration is whether in view of the fact that the applicant, who was promoted as a Typist in 1978 and has been continuously working against that post so far, is entitled to have more chances for qualifying the test. It has been held that an applicant cannot be regularised as typist de hors the rules. When the Rules provide that a person for promotion from Class IV post to Class III post has to pass the pre-appointment test which included written examination as well as viva voce, then in that case, the applicant cannot claim regularisation until he successfully clears those examinations. ( See Jethanand vs. Union of India & Ors, 1989(2)SLJ(CAT)657 and Kirpa Shanker vs. Union of India and others, 1992(2) S.L.J. 1965. In view of this, the applicant could not be regularised or confirmed in his appointment as Typist till he passed the qualifying examination. However, since the applicant has been working for over 15 years against this post, it will be in the interest of justice that he is given at least two more chances to qualify in the said examination. The application is, therefore, disposed of with the direction to the respondents, to afford two more opportunities for qualifying the examination, to the applicant and that he shall not be reverted from the post of Typist <sup>similarly placed</sup> till there is a vacancy and any of his juniors continues to work in a Class III post.

3. There will be no order as to costs.

(B.S. Hegde)  
Member(J)

B.N. Dhoundiyal  
(B.N. Dhoundiyal)  
Member(A)