

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

OA/05/00257/2020

Date of Order :20.01.2021

C O R A M

HON'BLE MR. M.C.VERMA, JUDICIAL MEMBER
HON'BLE MR. SUNIL KUMAR SINHA, ADMINISTRATIVE MEMBER



Chanchal Kumar, aged about 28 years, Male, Son of Late Rambabu Prasad, resident of Via Basant, Ramgarha, Ramgarha, Saran, Bihar-841202.

..... Applicant.

- By Advocate : Shri Amit Pandey.

-Versus-

1. The Union of India through the Chief Commissioner of Central GST and Central Excise, Ranchi Zone, Patna, 1st Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.
2. The Principal Commissioner/Commissioner, CGST and Central Excise, Patna-I (Cadre Control), 3rd Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.
3. The Additional/Joint Commissioner, CGST and Central Excise, Office of the Chief Commissioner of Central GST and Central Excise, Ranchi Zone, Patna, 1st Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.
4. The Additional/Joint Commissioner, CGST and Central Excise, Office of the Principal Commissioner/Commissioner, CGST and Central Excise, Patna-I (Cadre Control), 3rd Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.
5. The Deputy/Assistant Commissioner (Establishment), Office of the Principal Commissioner/Commissioner, CGST and Central Excise, Patna-I (Cadre Control), 3rd Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.
6. The Superintendent (Establishment), Office of the Principal Commissioner/Commissioner, CGST and Central Excise, Patna-I

(Cadre Control), 3rd Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.

7. The Date Entry Speed Test Inspection Committee, Office of the Principal Commissioner/Commissioner, CGST and Central Excise, Patna-I (Cadre Control), 3rd Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.

..... Respondents.

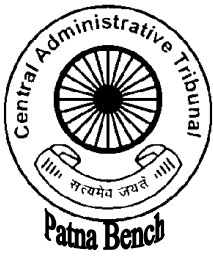
By Advocate :- Shri H.P.Singh, Id. Sr. SC.

ORDER [ORAL]



Per M.C.Verma, Member (Judl.):- Heard. Instant OA has been preferred by the applicant to set aside the order/letter C. No. II (3)30-ET/comp/2017/Part-II/2911 dated 21.11.2019 issued by Additional Commissioner, CGST, Patna whereby candidature of the applicant on the post of Tax Assistant on ground of compassionate appointment has been rejected. It has been pleaded by the applicant in his OA that after death of his father in harness during his service, applicant applied for appointment to the post of Tax Assistant on compassionate ground. That his case was considered by the respondents and he was selected for appointment on ad-hoc basis to the post of Tax Assistant. That he was called in the office of respondents for verification of document etc. and that he has to appear in test for Data Entry Speed Test (hereinafter referred to as DEST). That it was scheduled on 10.10.2019. That he was provided computer and electronic instrument by the respondents and he was directed to give test. When computer provided by the respondents having some technical difficulty and that applicant reported the

matter to the respondents but without considering the difficulty, he was declared fail and thereafter aforesaid letter dated 21.11.2019 was passed and sent to the applicant.



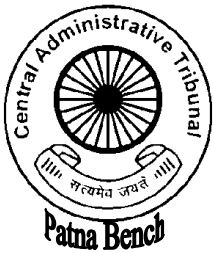
2. The contention of the applicant primarily revolves around to the aspect that the computer provided to the applicant for giving test was have some technical difficulty and the same was reported to the respondents but without considering the same, result was declared. Another candidate also took aforesaid DEST and both have declared fail in speed test. That the failure of the candidates was not because of non competency but because of technical fault of the computer provided by the respondents Department.

3. The notice of the OA was issued, respondents did contest the matter and filed reply. It has been stated therein that the applicant fail to meet the required standards and could not qualified in the test. That qualifying in the test is nature to became eligible. That senior officer of the respondents were supervising and conducting that test. That before conducting the test, applicant and other candidate were shown the computer and attached key Board and none have made complain and having taken verbal consent as usual type, test was started and order of schedule 15 mandate. Both candidate failed in said test and after declaring them disqualified,

they started complaining about non functioning of key Board. Other candidate did not made any complain.

4. Respondents disputed the merit of the OA and denied any fault in the computer and has prayed to dismiss the OA.

5. After notice, matter was admitted for final adjudication.



Learned counsel Shri Amit Pandey who is appearing for applicant reiterating the contentions made in the OA urged that it is not disputed that computer set provided by the respondents Department. That it is not disputed that the test was for 15 minute. That it was not disputed that applicant has not made any complain about the fault in the computer on the day of test itself at first opportunity, he concluded.

6. Taking that matter relates to compassionate appointment so it was incumbent upon the respondents that even if applicant failed in the test, they had to give him another opportunity but in instant case having taken note of grievance of the applicant, impugned order was passed arbitrarily. Learned counsel also drew our attention to OM No. 14014/2/2009-Estt(D) dated 11.12.2009 and urged that said OM provides that in case of compassionate appointment, if the candidates not immediately meeting the minimum standards, he can be engaged as trainee and may be given pay scale.

7. Learned counsel Shri H.P. Singh who is appearing for the respondents vehemently disputed applicability on aforesaid OM dated 11.12.2019 heavily relied upon by the applicant. He urged that said OM speaks minimum educational standard and provides further that in exceptional circumstances giving relaxation for minimum standard, the candidate should be appointed as trainee. Here it is not the case where the applicant is fulfilling the requirement but here is the case where applicant is fail in test. Learned counsel further submits that it is true that the applicant made complain about fault of computer but complain was made after announcement of the result . He submits that unnecessarily to create a ground, excuse of fault of computer alleged.



8. Considered the submissions. As noted above, the present one is a case relating to appointment on compassionate ground. It is not disputed that applicant has been selected earlier. If the applicant could not qualified in DEST, it is not justifiable to give him another opportunity to give test. Compassionate appointment is a scheme and its primary object to save the family from financial hardship.

9. Taking note of entirety we think that without enter into factual aspect whether computer have some technical fault or not, we disposed of this OA with direction to the respondent no. 3 to fix a date for DEST and give one more chance to the applicant to appear

in DEST within three months from today and to communicate about the said date and place etc. to the applicant in writing atleast in 15 days advance of the test.

10. The OA is disposed of with above directions with no order as to costs.



[Sunil Kumar Sinha]
Member (A)

Pkl/

[M.C. Verma]
Member (J)