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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.

Date of decision: 24.07.1992

1. OA-1238/90
2. OA-1239/90

1. Shri Mohinder Pal & Others } Applicants
2. Shri O.P. Sood & Others }

Versus

Union of India through the
Secy., Miny. of Urban Dev.
and Others

.... Respondents

For the Applicants

.... Shri B.B. Rawal, Advocate

For the Respondents

.... Smt. Raj Kumari Choora,
Advocate.

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

As common questions of facts and law have been raised in these two applications, it is proposed to dispose them of in a common judgement. The applicants have worked as Technical Assistants on substantive basis in the Government of India Press, Photo Litho Unit, Minto Road, New Delhi, for several years. They are aspiring to be appointed as Key Board Operators and to be regularised as such. They have called in question the decision

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of the respondents to subject them to a trade test for appointment as Key Board Operators and in case they do not qualify in the said test, to be put on clerical and typing job. In OA-1238/90, the applicants have also sought for quashing the amendment of the recruitment rules which prescribe qualifying in the trade test as a pre-condition to appointment of Key Board Operators.

2. We have gone through the records of the case and the written submissions made by both the parties.

3. The applicants were initially appointed as Lower Division Clerks (LDCs) and were confirmed as such. Subsequently, 12 posts of I.B.M. Operators were created in the Hindi Augmentation Scheme for which the applicants applied and they were appointed as such in 1971-72. Some time in 1987/88, the Government of India decided to modernise the working of the Press by switching over to Phototype Setting System in place of the conventional system of Type Setting.

4. In view of the above, the respondents have contended that the applicants would have become surplus but the Govt., in order to provide them opportunity to work in Phototype setting, decided to offer some facilities so that they attain the required skill in the new technology and if they qualify the trade test as per the recruitment rules, they could be appointed as Key Board Operators. The case

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of the respondents is that though the applicants were given ample time and opportunities to pass the trade test, they have not done so. The respondents have also stated that the applicants would not be put to any monetary loss in case their services are to be utilised in clerical jobs. As against ^{this, a} the contention of the applicants is that at the time of their appointment as I.B.M. Operators, they had passed the requisite trade test, and that subjecting them to another trade test, is uncalled for and unjustified. They have worked for about 20 years as Technical Assistants and have acquired considerable experience and in case they are put to clerical or typing work, it will amount to downgradation. They have also contended that putting to clerical jobs would not be commensurate with the status they are entitled to.

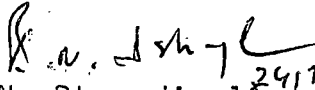
5. There is nothing on record to indicate that in case the applicants are utilised for clerical jobs, they will suffer any diminution in their pay packet. The question, however, would survive as to whether putting them to clerical jobs, would be commensurate with their qualifications and experience and whether it would be in tune with the relevant recruitment rules.

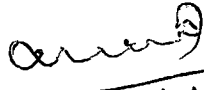
6. The recruitment rules for the posts of Key Board Operator (Offset) were notified in the Gazette on 28.12.1987, a copy of which is at pages 31-32 in OA-1238/90. 50 per cent of the posts were to be filled by direct recruitment and 50 per cent by transfer, failing which, by direct recruitment. The essential qualifications prescribed were matriculation or equivalent of a recognised Education Board and typewriting speed of 40 w.p.m. in English and 30 w.p.m. in Hindi. The recruitment rules were, however, amended by notification dated 12.3.1990. The name of the post was changed to Phototype Setting Key Board Operator. Instead of the typewriting speed in English and Hindi, it was provided that speed at 8000 corrected ENS in English and 7500 corrected ENS in Hindi per hour of phototype setting key-board is an essential qualification. Under the amendment, 50 per cent of the posts are to be filled by direct recruitment and 50 per cent by transfer, failing which, by direct recruitment. As regards transfer, it was stipulated that Litho Operators/Mono Operators/Technical Assistants/Compositors who have successfully undergone a course of training for a period of six months of a phototype system and have qualified in the trade test, are eligible for appointment by transfer.

7. With the switching over to the Phototype Setting system under the modernising scheme, prescription of qualifying in a trade test, cannot be said to be arbitrary or unreasonable. The Key Board Operator should possess the requisite skill and the prescription of a test is one of the means for adjudging the level of that skill. Admittedly, the applicants have not been able to qualify in the prescribed test despite opportunities given to them by the respondents in this regard. The respondents have stated in their counter-affidavit that the applicants did not avail of the final opportunity given to them to appear in the test for which time was extended to 14.6.1990, when a test was to be conducted.

8. In the light of the foregoing, while we hold that the applicants are not entitled to the relief sought by them, we are of the opinion that they should be given at least two more chances to appear and qualify the test. In case the applicants avail of the opportunity so offered to them and they qualify in the test, they should be appointed as Key Board Operators in the available vacancies. The application is disposed on the above lines. There will be no order as to costs.

9. Let a copy of this order be placed in both the case files.


(B.N. Dhoundiyal)
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)