

22

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1164 of 1997

Allahabad this the 25th day of May, 2004

Hon'ble Mr. Justice S.R. Singh, Vice Chairman
Hon'ble Mr. S.K. Hajra, Member (A)

Pushpendra Kumar S/o Sri Madan Singh, R/o 104, Old
Mohan Puri, Meerut.

Applicant

By Advocate Shri V.K. Goel

Versus

1. Union of India through Secretary, Ministry of Labour, Kshram Shakti Bhawan, New Delhi.
2. Central Provident Fund Commissioner, 14, HUDCO Vishala, Bhikaji Cama Place, New Delhi.
3. Regional Provident Fund Commissioner, Kanpur, Nidhi Bhawan, Sarvodaya Nagar, Kanpur.

Respondents

By Advocate Shri N.P. Singh

O_R_D_E_R (Oral)

By Hon'ble Mr. Justice S.R. Singh, V.C.

The name of the applicant was sponsored by the Employment Exchange, Meerut for appointment to the post of Lower Division Clerk(for short L.D.C.) in Sub Regional Office Meerut of the Provident Fund Organisation. In fact, Regional Provident Fund Commissioner by his letter dated 28.11.1995 had notified 56 vacancies for Sub Regional Office, Meerut on the post of L.D.C. besides vacancies at various Sub Regional Offices under him. A copy of letter was forwarded to the Employment...pg.2/-

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23

Exchanges with the request to sponsor the names of suitable candidates. Name of the applicant was sponsored by the Employment Exchange, Meerut, as stated above, and he appeared in the written test, in which he was declared successful. With a view to judge the proficiency in typing, candidates who were declared successful, subjected to typing test. The applicant also participated in the typing test held on 27.10.1996 but he could not pass the typing test. The applicant, it appears, has moved an application on 04.06.1997, copy of which has been annexed as annexure-6 to the O.A., praying therein that he may be permitted to appear in retest for typing. Since no decision was taken on the said application the applicant instituted the present O.A. on 24.10.1997, praying for issuance of a direction to the respondents to hold retyping test for the applicant and consider his application for appointment on the basis of result of retyping test, as stated above.

2. Shri V.K. Goel, learned counsel appearing for the applicant has submitted that in a similar case O.A.No. 58 of 1994 Navin Kumar Sinha and Others Vs. U.O.I. & Others Patna Bench of this Tribunal vide order dated 28.07.1995 allowed the applicants therein to appear in re-test for typing. He has also placed reliance on another decision of Patna Bench in O.A.No.566 of 1997 Sanjiv Kumar Sinha Vs. Union of India and Others connected with certain other O.A.s decided by common order dated 31.05.2002 in which respondents were directed to conduct a second retyping test (final) of the applicants and consider their candidature for appointment to the post of L.D.C. in the department against the available vacancies on the basis of result of retyping test.

3. Shri N.P. Singh, Counsel for the respondents on the other hand submitted that under the rules, retyping test is not permissible and the Patna Bench had allowed retyping test on the facts of the case before it. The Patna Bench decision, submitted Shri N.P. Singh, cannot be ~~invoked~~ as a matter of rule. He has also placed reliance on a decision dated 30.08.2000 rendered by this Bench in O.A.No.863 of 1998 Sarvesh Gaur and Others Vs. Union of India and Others, where the decision of Patna Bench was considered and then it was held that rules do not provide for any retyping test. Learned counsel further submitted that applicant cannot claim retyping test as a matter of right. The Patna Bench decision, copy of which has been annexed as annexure-5 to the O.A., has already been distinguished by the Allahabad Bench in the O.A., referred to above. The ground on which the applicant claimed retyping test have not been found to be valid and Shri V.K. Goel has advanced his arguments only on the basis of decision given by the Patna Bench of this Tribunal. The relevant letter referred to in the Patna Bench Judgment on the basis of which retyping test was allowed pertains to the selection for L.D.C. in Regional Office, Bihar. It is provided in the letter that matter had been examined in consultation with the Staff Selection Commission and the Chairman, Central Board of Trustee, Employees Provident Fund had been pleased to agree with the norms proposed by the Staff Selection Commission "as a very special case". In that view of the matter, we are of the view that Patna Bench decision does not have universal application and of no avail to the applicant.

4. Shri V.K. Goel then submits that in the year 1990 retyping test was allowed for the post of L.D.C. in the.. pg.4/-

D.P.J

Regional Office, Kanpur in respect of S.C./S.T. candidates.

In respect of vacancy at Regional Office, Delhi, it is submitted by Shri Goel, also opportunity for retying test was given to the candidates who were declared successful in the written test in the selection that was held in the year 1996, in our opinion, had not entitled the applicant to claim retying test as a matter of rule or as a matter of right. The Allahabad Bench of Tribunal has already dismissed the O.A.No.863/98 pertaining to the same selection, where retying test was claimed.

5. In view of the above discussions, O.A. fails and accordingly dismissed. The interim order, if any stands vacated. No order as to costs.

S. K. Ray
Member (A)

R. J.
Vice Chairman

/M.M./