

(RESERVED)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ALLAHABAD THIS THE

DAY OF

September
2nd August, 2005.
S. Chaube

ORIGINAL APPLICATION NO. 268 OF 2001.

HON'BLE MR. MUZAFFAR HUSSAIN, MEMBER- J
HON'BLE MR. S.C. CHAUBE, MEMBER-A.

1. Jai Prakash, S/o Sri Shyam Bihari
2. Ram Pal Prasad, S/o Late Budhdhu
3. Jai Singh, S/o Late Ram Awadh Singh
4. Nagendra Nath, S/o Late Ram Pyare

Presently posted as Clerk in the office of the
Dy. Controller of Stores, North Eastern Railway,
Gorakhpur (Depot.)Applicants

Counsel for the applicant : Sri O.P. Pandey

V E R S U S

1. Union of India through the General Manager,
North Eastern Railway, Gorakhpur.
2. The Dy. Controller of Stores,
North Eastern Railway, Gorakhpur (Depot.)
3. The Chief Personnel Officer,
North Eastern Railway, Gorakhpur.

.....Respondents.

Counsel for the Respondents : Sri D.P. Singh

O R D E R

BY HON'BLE MR. S.C. CHAUBE, A.M

The applicants (four in number) have impugned orders dated 18.06.1998, 14.09.2000 and 15/16/17.01.2001 and have further sought exemption from the typing test in Hindi or English,

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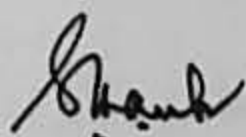
2. Briefly, the fact are that the applicants, who are the Group 'D' employees, have been promoted provisionally after completing more than 8 years of service in the different departments of North Eastern Railway, Goprakpur vide the order dated 29.05.1998. It has been stated that 14 more such employees have been promoted in different departments as Clerk through order dated 15.03.1996 (Annexure 2). Although the status of the applicants is same as that of employees promoted through the order dated 15.03.1996 however, those promoted in March 1996 have not been subjected to any typing test. It is further contended that the applicants have been promoted in the category marked as unskilled, which do not have any need of typing knowledge. However, the applicants vide order dt. 18.06.1998 and 04.09.2000 have been directed to have the qualification and eligibility of typing with a speed of 25 words per minute in Hindi or 30 words per minute in English. The two representations filed by the applicants date. 21.12.2000 and 03.01.2001 have been rejected vide order dated. 15/16/17.01.2001.

3. It has been contended that the employees already promoted through order dated 15.03.1996 have never been subjected to any typing test; that the applicants have been promoted on unskilled post; that the applicants have been promoted after going through the selection proceedings; that the respondents have never considered the relevant rules in passing the order dated 14.09.2000; that there was no precondition that firstly the applicant should have the knowledge of typing and thereafter only they will

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be promoted etc . Finally in support of their contentions the applicants have annexed copy of erstwhile Financial Rule 14 which provided grant of exemption to Lower Division Clerks from passing typing test.

4. The respondents on the other hand have vehemently refuted the contentions of the applicants and have further maintained that as per notification dated 09.03.1994 requirement of typing test was not included as per the instructions of the Railway Board; hence there was no question to apply the condition of typing test. Accordingly the promotion order No. 31 dated 15.03.1996 was issued as per the notification dated 09.03.1994. Meanwhile the requirement of typing test was included as per Railway Boards letter dated 20.08.1997 (Annexure CA- 5). Accordingly it was decided that henceforth promotion from Group 'D' to Group 'C' against 33-1/2 quota in the ministerial cadre may be allowed on provisional basis and the concerned staff may be given two years time from the date of promotion to qualify the prescribed typing test and if they failed to qualify the typing test within this period they will be liable to be reverted. The respondents have further contended that the applicants are transferable to other section where the need of typing is essential . They have further cited the instances of 6 employees who were selected and promoted along with the applicants have passed the typing test. On the other hand the applicants have failed to achieve the required speed of typing inspite of 2 chances afforded to them, hence they have no right to claim their retention on the post for which they



were promoted provisionally as per notification dt. 20.08.1997.

5. We have heard the rival contentions of the parties and perused the pleadings.

6. It is admitted by the applicants that they had been promoted vide order dated 29.05.1998 from Group 'D' to the post of clerks in Group 'C'. There is a lot of substance in the contention of the respondents that requirement of typing test was included vide notification dated 20.08.1997. Accordingly, it was imperative for the applicants to achieve the required speed of typing in Hindi or English, which they have failed to do inspite of 2 chances afforded to them. Similarly, in our considered view no comfort can be derived by the applicants from the circular dated 09.03.1994, which has later been modified vide the circular dated 20.08.1997. Thus there can be no comparison between the applicants of the present case and those promoted in the year 1996 as per provisions of the circular dated 09.03.1994.

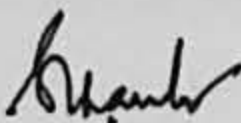
7. Learned counsel for the applicants has prayed for grant of exemption from the typing test of the applicants. He has based his prayer on the provisions of Financial Rule 14, which has since been deleted vide the DOPT notification dt. 09.02.1998. Thus the procedure for grant of exemption from typing test for clerks having been taken out of the statute no remedy on this count can be considered by the Court.

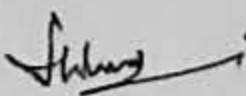
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8. We are also inclined to accept the contention of the respondents that the post of clerks in NE Railway comes under the ministerial category for which the requirement of typing is essential as per circular dated 20.08.1997 of the Railway Board. Further vide office order no. 45 dated 18.06.1998 the condition of typing was specifically reiterated and communicated to the concerned employees including applicants for their compliance.

8. As the applicants have failed to achieve the required speed of typing in Hindi or English they have, therefore, no right for retention on the post of clerks and are liable to be reverted.

10 For aforesaid reasons the O.A is dismissed being bereft of merits. We make no order as to costs.


MEMBER- A.


MEMBER- J.

/ANAND/