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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH JODHPUR

O A No.242/2002

Date of decision: 29.07.2003.

Smt. Chandrakala Bairwa, wife of Shri Narendra Kumar, aged 32 years, Clerk in the Office of Senior Section Engineer, Western Railway, Abu Road, r/o C/o Shri Bhanwari Lal Bairwa, Shivaji Colony, Abu Road, District Sirohi..

: Applicant.

Versus

1. Union of India, through the General Manager, Western Railway, Church Gate, Mumbai
- Divisional Railway Manager, Western Railway, Ajmer,
- Senior Section Engineer, Western Railway, Abu Road, District Sirohi.

: Respondents.

Mr. Vijay Mehta
Mr. Salil Trivedi

: Counsel for the applicant.
: Counsel for the respondents.

CORAM

**The Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
The Hon'ble Mr. S.K. Malhotra, Administrative Member**



ORDER

Per Mr. Justice G.L. Gupta.

The Challenge in the instant O.A is to the letter dated 04.08.2002, whereby the applicant was reverted from the post of Clerk to the post of Class IV.

2. The applicant who belongs to ST community was appointed on the post of Clerk on compassionate grounds vide order dated 02.12.96, in the pay scale of Rs. 950-1500/-. One of the conditions in the appointment order Annex. A.2 was that the applicant was required to pass the typing test within a period of

two years from the date of appointment. The applicant could not pass the typing test within the stipulated period and therefore the respondents passed the impugned order dated 04.08.2002. (Annex. A.1)

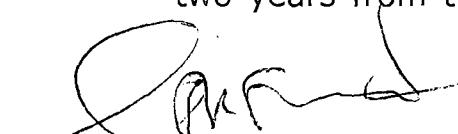
3. In the reply the respondents' stand is that the applicant was given three chances, but she failed to clear the typing test and therefore the impugned order has been issued. It is stated that the appointment of the applicant to the post of clerk was not substantive appointment and it was only on adhoc basis. It is further stated that under the impugned order no recovery is likely to be made from the applicant.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. The learned counsel for the applicant frankly concedes that the respondents have not erred in reverting the applicant to the post of Class IV, because of her failure to clear the typing test in three chances. The only submission of the learned counsel is that no recovery should be made from the applicant till she joins the post of class IV.

6. The learned counsel for the respondents submits that the order dated 04.08.2002 (Annex. A.1) does not imply that recovery shall be made from the applicant. He points out that this fact has been stated in the reply also.

7. It is seen that the applicant is continuing on the post of clerk under the orders of this Tribunal dated 17.09.2002. It is also seen that as per the terms of the appointment order Annex. A.2 , the applicant was required to pass the typing test within two years from the date of appointment. The respondents did



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not take steps to revert/remove the applicant on the expiry of the said period. Rather they allowed chances to the applicant to clear the test. Keeping in view the facts and circumstances of the case, we think it a fit case in which the respondents are directed to make recovery from the applicant, who is continuing on the post under the orders of this Tribunal.

8. Consequently, the respondents are directed not to make any recovery from the applicant under the Order dated 04.08.2002 (Annex. A.1) The applicant shall stand relieved from the post of Clerk from the afternoon of 31.07.2003(A.N.) She may join on the post of Class IV on 01.08.2003.

9. The Original Application stands disposed of accordingly. No order as to costs.


(S.K.MALHOTRA)

Administrative Member.

Jsv.s


(G.L.GUPTA)

Vice Chairman.