

1/12/20

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR.**

**Original Application No. 44/2004**

**Date of the order: 04.01.2007**

**Hon'ble Mr. Kuldip Singh, Vice Chairman.**

**Hon'ble Mr. R R Bhandari, Administrative Member.**

1. B B Bhatnagar, S/o Sri KBL Bhatnagar, aged about 44 years at present employed on the post of MCC ( c ) in Dy. CE ( C ) Bathinda, Bikaner Division, Bikaner, Northern/W Railway.
2. Mustak Ali, S/o Shri Mohammad Ali, aged about 49 years at present employed on the post of Office Khalasi RRD Branch, Bikaner Division, Bikaner, Northern/W Railway.
3. Smt. Kanta Devi wife Late Balveer Singh, aged about 48 years at present employed on the post of Office Khalasi, in Personnel Branch, Bikaner Division, Bikaner, Northern/W Railway.
4. Chandra Shekhar son of Shri Bhanwar Lal, aged about 29 years, at present employed on the post of Key man RRD Branch, Bikaner Division, Bikaner, Northern /W Railway.
5. Mohar Singh, s/o of Shri Kishan Ram aged about 37 years at present employed on the post of Farash, RRD Branch Bikaner Division, Bikaner; Northern /W Railway.

: Applicants.

Rep. By Mr. B Khan : Counsel for the applicants.

**VERSUS**

1. Union of India through General Manager, Northern West Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Bikaner Division,
3. Divisional Personnel Officer, North Western Railway, Bikaner Division,
4. Smt. Shaila, clerk-cum-typist, Through Section Engineer Electrical Delhi Sarai Rohila, Delhi Northern West Railway.

*[Signature]*



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5. Shri Mahir Hussain, North Western Railway, through Assistant Engineer, North Western Railway, Rewari.

6. Smt. Kamlesh Sharma, Clerk Cum Typist, through Station Superintendent, Sirs, North Western Railway ( Hariyana )

: Respondents.

Rep. By Mr. Vineet Mathur: Counsel for respondents 1 to 3.

None present for private respondents 4 to 6.

### **ORDER**

#### **Per Mr. Kuldip Singh, Vice Chairman.**

This is the second round of litigation in the same matter.

The applicants, who are Group D employees, are aggrieved by the order of the respondents dated 11.04.2002 (Annex. A/1) vide which, they have not been allowed the fourth additional chance to qualify the type test for the selection to the post of Clerk Cum Typist in the pay scale of Rs.3050-4590 (RP).

2. The facts in brief are that the applicants were initially appointed in Group D posts on various dates. It is stated that vide notification dated 28.04.97, the 3<sup>rd</sup> respondent invited applications from the serving Group D employees for preparing a panel for promotion to the post of Clerk against 33 1/3% quota. The applicants along with some others applied for the same. The selection consisted of written test and viva voce. All the applicants were empanelled and promoted to the post of Clerk Cum Typist vide order dated 23.07.98. (Annex. A/9). The said order contained a condition that they have to pass the typing test in English or Hindi within a period of three years and

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as per the rules three chances are to be given for passing the same with an interval of six month in each such test. It is further stated that all the applicants have availed three chances but they were not fortunate enough to clear the typing test. Therefore they were issued show cause notices vide Annex. A/10, as to why their names should not be removed from the select panel and reverted back to Group D post. In response to the said notice, the applicants gave a reply and made a request to the authorities to allow one special chance to clear the typing test since they were never deployed on the typing job of any type and one such additional opportunity was also given to one Md Jafar as it is apparent from Annex. A/15. It is further submitted that they have earlier filed O.A. No. 168/2001 before this Bench of the Tribunal and this Tribunal disposed of the same with a direction to the respondents to look into the matter and after taking into consideration the circumstances put forth by the applicants as well as the circumstances under which Md. Jafar was allowed to take up the test on the fourth occasion and appropriate speaking order shall be passed in the case of the applicants.



3. The respondents after considering the representation and the order of this Tribunal rejected the request of the applicants for granting 4<sup>th</sup> chance as a special case, to clear the type test. In the grounds to challenge the same the applicants have stated that some of the candidates at head quarters office were

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given special chances but the same was not extended to the applicants.

4. The official respondents have filed a detailed reply. It is stated that the applicants were given three chances after an adequate interval to qualify the type test i.e. on 14<sup>th</sup> April 1999, 23<sup>rd</sup> August 1999, and 20<sup>th</sup> Feb 2000, but applicants did not qualify the typing test and hence they were given show cause notice to defend their cases. After going through the replies, reversion orders were issued by the competent authority vide impugned order dated 23.03.2001/21<sup>st</sup> May 2001.



5. We have heard the learned counsel for both the parties and perused the pleadings carefully. A perusal of the reply would go to show that there was adequate gap between one type test and another. But in the case Md. Jafar, there was only one month gap between two type tests and hence he was allowed the 4<sup>th</sup> chance as a special case. The respondents have also placed reliance on circular No. PS 11330 vide which three chances, after an adequate interval within a period of two years, were to be given for passing the type test and accordingly the applicants were given three chances for qualifying the type test i.e. on 14.04.99, 23.08.99 and 20.02.2000. From the reply of the respondents we find that the respondents have fully complied with the instructions of Railway Board on this subject. They had held typing tests for

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the applicants as per the instructions issued by the Railway Board. Adequate interval was also there in between the tests. Thus the facts and circumstances of the case of Md. Jafar are quite distinguishable. Hence we do not see any ground to interfere with the impugned orders passed by the respondents.

The O.A is therefore dismissed with no order as to costs.

  
( R.R Bhandari )  
Administrative Member

  
(Kuldip Singh)  
Vice Chairman.

jsv

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