

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 48 of 2011

FRIDAY, this the 14th day of September, 2012

CORAM:

HON'BLE Mr. JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

Sobha K.S,
D/o. Suresh K.A,
Kozhikkal House, Thuruthippuram,
Moothakunnam P.O., Ernakulam : 683 516

... Applicant.

(By Advocate Mr. Ashok M. Cherian)

v e r s u s

1. The Union of India represented by the Secretary to the Government of India, Department of Post, New Delhi.
2. The Chief Postmaster General, Kerala Circle, Thiruvananthapuram – 695 033
3. The Senior Superintendent of Post Offices, Aluva Division, Aluva : 683 101
4. Monisha Rajagopal, D/o. M.G. Rajagopal, Mundakkal House, Parappuram P.O., Via. Kanjoor – 683 575
5. Athira K.S, D/o. Shri K.S. Vilasachandran, Ambelil House, Desom P.O., Via U.C. College - 683 102.
6. Sandeep Kartha R., S/o. K.N. Ramachandran Kartha, Kunjathu Geethalayam, Valamboor, North Mazhuvannur P.O., Via Mudavoor : 686 669
7. Safna K.s, D/o. K.E. Sulaiman, Kuzhikkattakathoot House, Kuttamzassery, Thottumguhom P.O - 683 105
8. Arya M.P., D/o. Arya M.P., Menacheril House, Karumalloor P.O., Via. Alangad : 683 511
9. Ancy Paul, D/o. P.V. Poulose, Padinjare Kakkudiyil House, Hothamangalam : 686 691
10. Safeena M.K., D/o. Sri Faris K.A, Kanjirathingal House, Marampilly P.O., Via. Thottumughom : 683 105



11. Neethukrishna, D/o. Shri O.K. Krishnan, Oonnukallungal, Nellad P.O., Via. Mudavoor : 686 669
12. Meera K, D/o. Kamalakshan V.T, Veliyathu House, Kuttamassery, Thottumughom : 683 105
13. Nibin Chandran, S/o. Shri Chandran P.N., Polakkulam House, Parappuram P.O., Kanjoor : 683 575
14. Sangeetha T.S, D/o. Shri Sudhan T.S, Thoppil House, Karimpadom, Chendamangalam P.O. : 683 512
15. Nibin. M, S/o. C.B. Moideenkutty, Cheruvallikudy House, Nedumthode, Mudikkal P.O. : 683 547
16. Jini Thomas, d/o. M.P. Thomas, Naissery House, East Kadungalloor, Valavumalil, U.C. College P.O. : 683 102

... Respondents.

(By Advocates : Mr. S. Jamal, ACGSC for R1-3
 Mr. Paul Varghese M for R4,5,7,9,11,13-16 and
 Mr. Gigimon Issac for R-12)

This application having been heard on 06.09.2012, the Tribunal on
14-09-12 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicant has secured 82.664 marks out of 100 in the test for direct recruitment of Postal Assistant for the vacancies of 2009-10. She claims that she did not figure in the select list only because the respondents 04 to 16 were granted 5 marks for typing test in violation of para 5.5 of Annexure A-1 prospectus. Aggrieved, the applicant has filed this O.A. for the following reliefs:

- (i) To call for the records leading to Annexure A3 select list of Postal Assistants issued by the 3rd respondent vide memo No. BB/Rectt/2010 dated 17.11.2010 and to set aside the same to the extent it includes names of respondents 4 to 16 in preference to the name of the applicant;



(ii) To declare that the applicant is entitled to be recruited and appointed as Postal Assistant in Post Offices under the 3rd respondent in preference to respondents 4 to 16;

(iii) To direct the respondents 1 to 3 to appoint the applicant as Postal Assistant under the 3rd respondent in preference to respondents 4 to 16;

(iv) To issue any other orders, declaration or direction appropriate in the circumstances of the case.

2. The applicant contended that the respondents 4 to 16 whose names are included in the select list at Annexure A-3 had not achieved the minimum typing speed of 30 word per minute (w.p.m) in the typing test. They have been awarded 05 marks for the test and thereby secured more marks than the applicant in total. Granting of 05 marks which they are not entitled to, is illegal. The respondents No. 2 and 3 are bound to act within the limits declared in Annexure A-1 prospectus and their actions are required to be free from favouritism and arbitrariness. The respondents No. 4 to 16 are entitled only for '0' marks for the typing test as per the prescription in Para 5.5 in Annexure A-1. When qualifications and modalities of selection are laid down and process of selection has been initiated at a later stage, they cannot be altered without notice to the affected parties. The applicant met with hostile discrimination. The applicant who is economically backward and without means of livelihood, is denied her fundamental rights guaranteed under Article 21 of the Constitution of India.

3. The official respondents in their reply statement submitted that the typing knowledge and the computer knowledge are only desirable qualifications in the case of Postal Assistants in the Post Offices. They have followed Annexure A-1 prospectus scrupulously. The computer test valuation

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was done on the spot and if the net speed is 15 w.p.m., the minimum standard to be achieved by the candidate, or above, full marks would be awarded and otherwise '0'. At item-xii under the head "special instructions to the applicants" in Annexure A-1, it was stated that selection of candidates to various posts will be in accordance with the relevant Recruitment Rules and administrative instructions issued by the Department of posts from time to time. Respondents No. 4 to 16 who find a place in the final selection list secured higher marks than the applicant and the applicant could not be selected overlooking their merit. Detailed instructions were given to all the candidate before commencement of the typing test. In para 11 of the instructions to the examiners, it is clearly mentioned that "if the net speed of the candidate is 15 w.p.m. or above, full marks should be awarded and if it is otherwise, '0' only will be awarded". The computer test is online and the valuation is done instantly on the computer using data entry test and typing master typing test software. After completing the typing, net speed of the candidate is displayed on the screen. The respondents No. 4 to 16 had achieved the minimum standard of net speed of 15 w.p.m. set by the department. The respondents have acted strictly in accordance with the method prescribed in Annexure A-1 and also as per the administrative instructions issued from time to time. The applicant also was awarded the maximum 5 marks for the typing test and thereby received the benefit of Annexure R-1. The applicant's non-selection to the post of Postal Assistant cannot be said to be violative of her fundamental rights. As per Annexure R-1 instructions, 5 marks were awarded for minimum standard and not for minimum speed. The net speed of 15 w.p.m. is the minimum standard fixed by the department. There is no discrimination in awarding marks for the typing test conducted either to the applicant or to any other candidate who

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appeared for the test.

4. The party respondents in their reply statement submitted that at the time of the typing test, it was announced by the authorities that the minimum typing speed fixed is 15 w.p.m. and that the software is also developed to assess the skill. The Recruitment Rules do not prescribe minimum speed of 30 w.p.m. for the Postal Assistants. As per the Recruitment Rules, the procedure for the recruitment shall be governed by the administrative instructions issued by the department from time to time. The department has prescribed a minimum speed of 15 w.p.m. for the post of Postal Assistants. In the 'Mathrubhoomi Thozhilvartha' the said instructions were published as a news item on 13.11.2010 (Annexure R4(b)). The applicant is estopped from taking shelter under clause 5.5 of Annexure A-1, on finding that she has no place in the rank list. The minimum typing speed of 30 w.p.m. is applicable to the Postal Assistants at Circle Offices and Regional Offices only. There is no discrimination or arbitrariness towards anyone in the matter of selection. All the candidates including the applicant, were considered on the very same instructions. Hence, there is no violation of any of the provisions of the Constitution. No rightful claim of the applicant is denied.

5. We have heard Mr. Ashok M. Cherian, learned counsel for the applicant, Mr. S. Jamal, learned ACGSC for respondents No. 1 to 3, Mr. Paul Varghese.M, learned counsel for the respondents No. 4,5,7,9,11, 13 to 16 and Mr. Gigimon Issac, learned counsel for the respondent No.12 and perused the records.

6. As per the records of the case, the applicant has higher speed in

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typewriting than the party respondents. But typing skill is only a desirable qualification for the Postal Assistants in Post Offices. The bench mark of 15 w.p.m. (net speed) is sufficient to secure full marks. The higher speed of the applicant in typewriting has not conferred her with any advantage. As the typing test is a desirable qualification with a prescribed bench mark, '05' marks is awarded to all those who achieved the same. Para 5.5 of the Annexure A-1 prospectus at Annexure A-1 is reproduced as under:

"5.5. The computer test consists of data entry knowledge and typing knowledge on computer. The test will consist of one passage in English or Hindi to be typed to test the typing knowledge (The passage for type test will be consist of 450 words in English and 375 words in Hindi to be typed at the minimum speed of 30 w.p.m) and data consisting of figures and letters to test the knowledge of data entry. The test shall for 30 minutes – 15 minutes for each part, i.e. typing knowledge and data entry and each part shall be given 5 marks each. Marks shall be given at 0 or 5 based on whether the candidate achieves minimum standard or not. There will not be graded marks. The weightage for computer test will be 10 marks."

The above para speaks of achieving minimum standard in typing for getting 05 marks. The minimum standard is fixed as net typing speed of 15 w.p.m. as per the administrative instructions to the examiners. How the minimum standard differs from the minimum speed is not spelt out by the official respondents. The minimum standard of 15 w.p.m. (net typing speed) could have been incorporated in para 5.5 of the prospectus for the sake of clarity.

7. However, in the news item in 'Mathruboomi Thozhilvartha' on 13.11.2010 clarified net typing speed as the speed in typing after deleting of mistakes (lack of correctness) from the gross typing speed and that the typing test is for 15 minutes (Annexure R-4 produced by the party respondents) . Further, the benchmark of 15 w.p.m. (net typing speed) for typing skill was



fixed way back on 10.11.2004 as per Annexure R-1. The same was announced by the authority at the time of the test. There is no case that the applicant did not hear the announcement. After having participated in the typing test knowing fully the requirement of speed of 15 w.p.m. only and then on finding that she does not figure in the select list, the applicant is estopped from challenging the selection. There is no taint of arbitrariness or discrimination in the method adopted by the official respondents in testing the typing skill. The applicant could not state which provision of the relevant Recruitment Rules has been violated by the respondents. The note in column 11 of the schedule to the Recruitment Rules dated 09.01.2002 reads as under:

"Note : The procedure for recruitment shall be governed by the administrative instructions issued by the Department from time to time."

The respondents have issued administrative instructions as per the Recruitment Rules to conduct the typing test, mentioned in para 5.5 of the Annexure A-1 prospectus. A careful reading of the para 5.5 of the prospectus, the Recruitment Rules and the administrative instructions would show that rules set for testing the typing skill of the candidates were not altered by the respondents, but there could have been better clarity in para 5.5 (supra). Complete objectivity and transparency in the evaluation are ensured by the instant automatic assessment of the typing speed by the computer. The benchmark of 15 w.p.m. (net speed) is uniformly applied to all the candidates causing prejudice to none. It also transpired during hearing that the applicant had participated in the test in 2009 also. Therefore, she had the experience of having participated in the typing test. She did not challenge the typing test but awarding of marks to the party respondents which in our view, does not call for judicial interference in

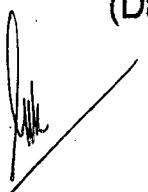


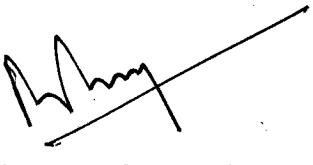
the instant case. In the facts and circumstances of the case, we do not find any denial of fundamental rights to the applicant. The contention of the applicant that the party respondents had been granted 05 marks in typing test illegally is not proved. Any candidate who achieves the minimum standard in typing is eligible to get 05 marks and the party respondents cannot be denied the same.

8. In the light of the above, we do not find any ground to interfere in the selection process for appointment as Postal Assistants in the instant case. However, the respondents are well advised to suitably amend para 5.5 of the prospectus to avoid lack of clarity in typing test in future.

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

(Dated, the 14th September, 2012)


K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER


JUSTICE P.R RAMAN
JUDICIAL MEMBER

cvr.