

Central Administrative Tribunal, Lucknow Bench, Lucknow.

Original Application No. 334/2008

This the 26th day of August, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)

Hon'ble Dr. A.K. Mishra, Member (A)

1. Parasuram aged about 48 years son of Sri Sunder, Resident of 83-C, Aishbagh Railway Colony, Lucknow, presently posted as Junior Clerk in the office of D.R.M. (Commercial) N.E. Railway, Lucknow.

2. Ram Awadh Yadav aged about 59 years son of late Sri Lekhai Yadav resident of T-29 b, Type II, N.E. Railway Guard Colony, Aishbagh, Lucknow, presently posted as Junior Clerk in the office of D.R.M. (Commercial) N.E. Railway, Lucknow.

Applicants

By Advocate; Sri Raj Singh

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.

2. Divisional Railway Manager, North Eastern Railway, Lucknow.

3. Divisional Railway Manager (Personnel), North Eastern Railway, Lucknow.

4. Assistant Personnel Officer -III, North Eastern Railway, Lucknow.

Respondents

By Advocate; Sri S. Lavania

ORDER

By Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicants (2 in number) are seeking relief to quash the order dated 18.9.2008 (Annexure No.1) whereby both of them have been reverted to their substantive post of Group 'D' from the provisional post of Group 'C' for having failed to acquire the proficiency in typing.

2. The facts are that the applicants were appointed on Group 'D' post in the year 1981 and 1983. By order dated 11.6.98 (Annexure No.2), both of them were promoted to Group 'C' post on the terms and conditions as laid down in the letter of appointment. One of the conditions of appointment was that they will have to acquire prescribed speed in typing within one year which was modified by letter of Railway Board dated 7.4.2000 (Annexure No.3). The period of one year was extended to two years. It was further provided in the letter of the Railway Board that all such promotees from Group 'D' to Group 'C' would be allowed to avail of three chances. Thus, it was to their advantage. The type test was held five times

in between 2001- 2007. The applicant availed of the opportunity twice and absented himself on three occasions. Therefore, by the impugned order dated 18.9.2008 (Annexure No.1) they were reverted to Group 'D' post. Meanwhile, during the pendency of the instant O.A., applicant No. 2, Ram Awadh Yadav has retired. Therefore, his claim has become in-fructuous. The applicant No. 1, i.e. Parasuram is still in service. However, by virtue of order dated 25.9.2008, status quo was maintained. Therefore, the impugned order was not given effect to. Resultantly, Ram Awadh Yadav retired while holding the promotional post in Group 'C'. Parasuram also continues to hold Group 'C' post on account of interim order dated 25.9.2008.

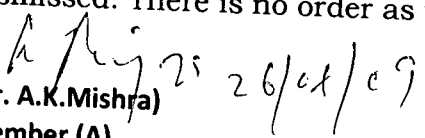
3. We have heard the learned counsel for the parties and perused the records.
4. It is an admitted fact that applicant No.1, Parsuram has failed to acquire proficiency in type even after about 11 years of his appointment. All sorts of pleadings have been raised except saying that he has acquired typing proficiency. Thus, the applicant seeks that Tribunal quashes the reversion order on technical ground ignoring the essential fact that he has failed to fulfill the condition on which he was promoted to the post of Group 'C'. The technical ground raised by the applicant do not go in his favour. If the tests were not held every six months or within 2 years, it does not go to the disadvantage of applicant. Admittedly, five tests were conducted between the year 2001-2007 as mentioned in the letter dated 10.7.2007 (Annexure No.4). The applicant did not participate in three of those tests and was unsuccessful in two of them. The chart (Annexure No.4) demonstrates and the conduct of the applicant. In fact, it was to the advantage of the applicant that the period during which he was required to attain typing speed was extended to about 9 years instead of 2 years. Thus, we fail to understand how the applicant can be made to score an advantage over the slackness on the part of the employer. The fact remains that the applicant has failed to acquire the prescribed speed in typing despite the tests being held five times between the year 2001-2007. Therefore, we are unable to find fault with the impugned order dated 18.9.2008 which was passed in accordance with the directives contained in Railway Board's letter dated 3rd July, 2000 (CR-1).


5. Before we part, it may be mentioned that G.M.'s letter dated 13.5.2008 and consequent order dated 8.7.2008 (Annexure No.10) is in respect of a different



category of employees. The same does not apply to those who have been promoted in Group 'C' from Group 'D' employees. Therefore, there exists no provision for exemption to the applicant for passing the typing test.

Resultantly, the applicant No.1 is not entitled to relief as prayed for. Interim order dated 25.9.2008 is hereby vacated. The claim of applicant No.2, Ram Awadh Yadav has become in-fructuous on account of his retirement. The O.A. is accordingly dismissed. There is no order as to costs.


(Dr. A.K. Mishra)
Member (A)


(Sadhna Srivastava)
Member (J)

HLS/-