

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No.287 of 1996

Date of order 13-8-1999

Kumari Madhu, D/o Sri R.N.Singh, Postal park, Chouk,  
Chirayatand, Patna.

.. Applicant

-versus-

1. Union of India through the Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, New Delhi-110 001.
2. The Chairman, Staff Selection Commission, Department of Personnel and Training, Ministry of Public Grievances and Pensions, Block No.12, CGO Complex, Lodhi Road, New Delhi-110 003.
3. Regional Director (CR), Staff Selection Commission, 8, A.B. Beli Road, Allahabad-211002.

.. Respondents

Counsel for the applicant .. Shri R.K.Choubey.

Counsel for the respondents .. Shri H.P.Singh

CORAM: Hon'ble Shri L.R.K.Prasad, Member (A)

Hon'ble Shri Lakshman Jha, Member (J)

ORDER

Hon'ble Shri L.R.K.Prasad, Member (A):-

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This application has been filed against Memo dated 31.5.1995 issued by the Regional Director (CR), Staff Selection Commission whereby the selection of the applicant has been

rejected from the select list of Clerk Grade Examination (CGE), 1992. This has also been filed for issuance of direction to publish the final result of the applicant and for her inclusion in the list of C.G. Examination, 1992.

2. The applicant appeared in C.G. Examination, 1992 at Patna on 27.9.1992. After coming out successful in written examination, she appeared for Typewriting test and brought her own typewriter. As there was break-down in typewriter, she brought the same to the notice of the Invigilator, who permitted her <sup>to appear</sup> again with the last batch of the test on the same day, in which she came out successful. The result of the C.G. Examination, 1992 was published in the Employment News (1-7 January, 1994).

(Her) Roll No. (2010906) appeared in the provisional list. As she was not getting any intimation, she took up the matter with the respondents and was ultimately informed vide letter dated 31.5.1995 (Annexure-A/6) that as per instructions of the Commission, no candidate can take the typewriting test again in case of failure of the typewriter in the first attempt. As such, she had failed to qualify in the typewriting test of C.G. Examination, 1992 and, therefore, she was not eligible to be considered for inclusion in the select list of CGE, 1992. Against the said decision of the respondent <sup>concerned</sup> the applicant made a representation on 26th June, 1995 (Annexure-A/7). As no response was received, she met the concerned officer of the Commission at Allahabad who informed her that the earlier decision stands. In view of above facts and the grounds explained in para 5 of the O.A., the applicant has sought following reliefs:-

(i) The order contained in Memo No. 106/SSC (R) dated

31.5.1995 (Annexure-A/6) of the Regional Director (OR), Staff selection Commission, Allahabad be quashed.

(ii) The respondents be directed to include <sup>select</sup> the name of the applicant in the final list of CGE, 1992 with her due seniority.

3. It is an admitted fact that the applicant appeared in the CGE, 1992. She was successful in the written examination whereafter she appeared in Typewriting test with her own hired typewriter. During the course of typewriting test, the said typewriter broke-down. The Invigilator permitted her to appear with the last batch on the same day with another typewriter and she was declared provisionally successful.

It is the stand of the respondents that it was not correct on the part of the centre Supervisor to permit the applicant to appear with the last batch for Typewriting test because he is not authorised to do so in view of point 17 of Part II of instructions to candidates for CGE Typewriting test (Annexure-A/4). The said point 17 states that candidates should ensure that their typewriters are in good working condition. No fresh chance will be given to the candidates, whose typewriters go out of order while typewriting. While advancing her claim, the applicant has quoted a precedent. She has stated that one Harendra Prasad Singh (UR), who appeared in 1989 Examination, was appointed through re-typewriting test held on 23.6.1991. It is the claim of the applicant that she stands on a better footing than the said H.P.Singh because he had failed in the first typewriting test. The reply of the respondents is that there is no similarity between the two cases on the ground that such candidates were called for second

select

typewriting test after the result for CGE, 1989 was announced. This was done in order to fill up unfilled vacancies in certain categories in some zone. Such opportunity was given to all the candidates who did not qualify in the first attempt. We are unable to agree with the contention of the respondents that the case of the applicant is totally different from the case of one H.P. Singh, as referred to above. In the instant case, the applicant brought her typewriter which broke down and she was allowed to appear again with last batch on the same date in which she was successful. Her result was also announced provisionally. In such a situation, it is not understood as to why her case was not considered. She definitely stands on a better footing than the case of H.P. Singh who was successful only in the second typewriting test in the CGE, 1989. If her typewriter broke-down, she should not have been allowed to appear again or her result should not have been announced. However, we find that she was allowed to appear with the last batch on the same day in the typewriting test in which she was successful and her name was included in the provisional list of successful candidates as at Annexure-A/2. There is no allegation that she adopted unfair means to achieve <sup>a</sup> the success. Her case has been rejected (Annexure-A-6) only on the ground that as per instructions, no second chance would be given in case of break-down of typewriter while typewriting. The matter has to be considered in its totality and not on mere technical point which has been stated in the instructions as contained at Annexure-A/4.

*Ms. Cop*

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

5. In view of the facts and circumstances of the case, as analysed above, the rejection letter as at Annexure-A/6 does not stand. In that view of the matter, we feel that it would be appropriate and fair that ~~prayer of the applicant is~~ considered by the respondent concerned for inclusion of her name in the final <sup>select</sup> list of CGE, 1992. The respondents are directed to consider the matter accordingly within three months from the date of receipt of a copy of this order. This O.A. is disposed of in terms of the aforesaid direction with no order as to the costs.

*Lakshman Jha*  
13.8.99  
(Lakshman Jha)  
Member (J)

*L.R.K. Prasad*  
13.8.99  
(L.R.K. Prasad)  
Member (A)