

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:75/2001
DATED THE 10TH DAY OF DECEMBER, 2002

CORAM:HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Ghoorey Lal,
working as a Junior Clerk,
Bombay Central
Working Under Senior Divisional
Security Commissioner,
Railway Protection Force,
Mumbai Central,
Mumbai - 400 008.

... Applicant

By Advocate Shri G.S.Walia

V/s.

1. Union of India through
General Manager,
Western Railway,
Head Quarters Office,
Churchgate,
Mumbai - 400 020.
2. Senior Divisional Security,
Commissioner,
Railway Protection Force,
Mumbai Central,
Mumbai - 400 008.

.. Respondents

By Advocate Shri Suresh Kumar

ORAL ORDER

Per Shri A.V.Haridasan, Vice Chairman

The applicant who commenced his career as a Constable in the Railway Police Force on medical decategorisation was appointed as a Record sorter. He was thereafter promoted as a junior clerk by order dated 22/4/1999 (Annexure A-2). His grievance is that while he had been continuing as a junior clerk and had also been empanelled for promotion as Senior Clerk, by the impugned order dated 16/1/2001, he has been reverted as a record sorter for the reason that he did not qualify in the typing test. It is alleged in the application that there is

...2.

no typewriter in the office of the applicant that his duties did not involve typing and that there is no provision that passing in the typing test is a sine qua non for promotion as junior clerk. The applicant prays that the impugned order be set aside.

2. The respondents in the reply statement contend that as per the Railway Board letter dated 3/2/1997, a person promoted as junior clerk is required to pass the typing test within a period of two years failing which he has to be reverted and the applicant having failed on three occasions to qualify in the typing test, his reversion is perfectly justified.

3. We have gone through the pleadings and have heard the learned counsel. An identical issue was decided by the Jaipur Bench of the CAT in OA No.457/2001 wherein one Shri Tejnath Ram who was selected as junior clerk along with the applicant was empanelled for promotion to senior clerk also alongwith the applicant while reverted for not passing the typing test, the Tribunal intervened and set aside the order on the ground that passing of the typing test was not mentioned obligatory. Relying on the above ruling the learned counsel of the applicant argued that as this applicant was promoted as junior clerk without any condition that he should pass typing test within a period and but on failure, he would be reverted, the impugned order is unsustainable in law.

4. We find considerable force in the argument of the learned counsel for applicant. The order posting the applicant was unconditional without any rider. We are in respectful agreement with the view taken by the Jaipur Bench in the case under citation and therefore follow the same.

...3.



5. It is pertinent to mention that the applicant who has been promoted as Junior Clerk in 2000, without any condition and has been empanelled for promotion as Senior Clerk cannot be at this late stage in life (the applicant was 57 years when the impugned order was passed) expected to pass typing test.

6. In view of the above facts and circumstances, OA is allowed. We set aside the impugned order dated 16/1/2001 with all consequential benefits to the applicant. The applicant shall be restored to the position as if Annexure A-1 has not come into force at all and he be given all consequential monetary benefits within two months from the date of receipt of copy of this order.

No costs.

h. a. 9

(SMT. SHANTA SHASTRY)
MEMBER(A)



(A.V. HARIDASAN)
VICE CHAIRMAN

abp