

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 2/3/2001

OA 632/96

Jagdish Narayan Meena s/o Shri Padri Narayan Meena r/o Khadu
Ki Dhani, Prem Nagar, Village Gator, Malviya Nagar, Jaipur.

... Applicant

Versus

1. Union of India through Principal Secretary, Central Secretariat, New Delhi.
2. Chairman, Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi.
3. Regional Director, Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi.

... Respondents

CORAM:

HON'BLE MR.S.R.AGAFWAL, JUDICIAL MEMBER

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Miss Shashi Sharma, proxy
counsel for Mr.Rajendra Soni

For the Respondents

... Mr.S.S.Hasan

O R D E R

PEP HON'BLE MR.S.R.AGAFWAL, JUDICIAL MEMBER

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to direct the respondents to give exemption to him from the type test as he is a handicapped person. Further directions are also sought to give appointment to the applicant on the post of Clerk from the date on which other persons have been given appointment after giving exemption from type test.

2. In brief, case of the applicant is that one of the fingers in his left hand is defective, therefore, he is unable to type in the manner a healthy person may so type. It is stated that the applicant appeared in the written examination for recruitment of Clerks in pursuance of an advertisement published in the Employment News dated 14.4.95 and passed the same. Thereafter, he was informed to appear in the type test. The applicant submitted a certificate

issued by the SMS Hospital, Jaipur, stating that the applicant is handicapped and, therefore, recommended to exempt him from type test. In pursuance of the said notice the applicant appeared in the type test although he was not required to appear as per the instructions issued for this purpose. The Staff Selection Commission (SSC) declared the result, wherein name of the applicant did not find place. It is stated that the applicant is a handicapped person and not exempting him from type test is clear violation of rules. The applicant filed a certificate of handicap alongwith his application form and also produced the same at the time of type test but no exemption was given to him for appearing in the type test. Therefore, action of the respondents not exempting the applicant from type test is altogether arbitrary, unjust and against the instructions issued by the respondent department. Therefore, the applicant has filed this OA for the relief as above.

3. Reply was filed. It is stated in the reply that the applicant did not enclose the required certificate in the prescribed form (Appendix-VII) issued by the competent authority with his application declaring him to be permanently unfit to pass type test because of his physical disability. As such, his claim for exemption for appearing in the type test was not considered and admission card was issued to the applicant for appearing in the type test. It is further stated in the reply that the applicant arrived in the examination hall with a typewriter and appeared in the type test alongwith other candidates and did not raise any objection at the time of type test. Had he presented himself as a PH candidate, SSC Officers present there would have issued him requisite certificate for seeking exemption from the type test. It is further stated that at the Jaipur centre there were four candidates who presented themselves as PH candidates and sought exemption, which was granted to them. It is also stated that for recommending a candidate for appointment as LDC, it is mandatory to qualify the type test. The applicant failed to qualify the type test due to

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his dismal performance. Therefore, applicant's name was not included in the list of successful candidates. Hence the applicant is not entitled to any relief sought for.

4. Heard the learned counsel for the parties and also perused the whole record.

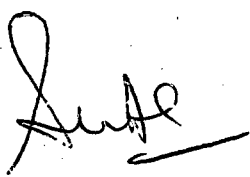
5. It is a proved fact that the applicant did not enclose with his application a certificate in the prescribed format (Appendix-VII) declaring him to be permanently unfit to pass type test because of his permanent disability. Physically, orthopaedically handicapped person is one who has a minimum of 40% of physical defect or differmity which has an interference with the normal function of bones, muscles and joints. According to the scheme of examination, the Clerk Grade Examination will consist of two parts :-

Part-I Written Examination

Part-II Type Test

For type test only those candidates who qualify the written examination will be considered eligible and only such candidates who qualify the type test shall be eligible for recommendation for appointment as LDC according to their merit. As per rules, a candidate who claims to be permanently unfit to pass type test because of physical disability may with the prior approval of Chairman, SSC, be exempted from the requirement of appearing and qualifying such test providing such a candidate has submitted alongwith his application a certificate (in the prescribed form as in Appendix-VII) to the Commission from the competent medical authority i.e. Civil, Orthopaedic Surgeon declaring him/her to be permanently unfit to pass type test because of a physical disability.

6. In the instant case, the applicant did not enclose the certificate in prescribed form (Appendix-VII) as issued by the competent medical authority declaring him permanently unfit to pass type test because of his physical disability rather the applicant arrived/reached at the examination hall with a typewriter and appeared in the type test as a normal



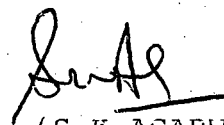
candidate and thereby availed a chance of competition by appearing in the type test and ultimately failed to qualify the same. If the applicant actually wanted exemption from appearing in the type test, he should not have presented himself alongwith typewriter as a normal candidate. No objection appears to have been raised by the applicant at the time of appearing in the type test. Therefore, contention of the applicant that he should have been exempted from appearing in the type test is not tenable. It is settled principle of law that if the applicant has appeared in the examination without any protest and failed in the said examination, he is estopped to challenge the said process of selection. On the basis of foregoing, we are of the considered opinion that the applicant has no case for interference by this Tribunal and this OA is devoid of any merit and is liable to be dismissed.

7. Therefore, the OA is dismissed as having no merits with no order as to costs.



(N.P. NAWANI)

MEMBER (A)



(S.K. AGARWAL)

MEMBER (J)