

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, J A I P U R

Date of Order : 22/05/2001.

O.A.NO. 413/1998

1. Purushottam Yadav S/o Shri Nehar Singh Yadav, aged about 32 years, R/o 973 A New Railway Colony, Kota Junction, Near Water Tank, Kota, at present employed on the post of Junior Clerk in Western Railway, Kota Division, Kota.
2. Mohd. Saleem, S/o Shri Peer Mohd. Aged about 28 years, R/o House No. 454/17, Lakan Pada, Chouth Mata Ka Bazar Kota, at present employed on the post of Junior Clerk in the Western Railway, Kota Division, Kota.

.....Applicants.

VERSUS

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Chairman, Railway Recruitment Board, Ajmer.
3. Divisional Railway Manager (Estab.), Western Railway, Kota Division, Kota.

.....Respondents.

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Mr. Shiv Kumar, present for the applicants.

Mr. Hemant Gupta, Adv. proxy for Mr. M. Rafiq, present for respondents.

CORAM :

HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN  
HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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Per Hon'ble Mr. Gopal Singh, A.M. :

In this Application under section 19 of the

*Gopal Singh*

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Administrative Tribunals Act 1985, Applicants' Purshottam Yadav and Mohd. Salim, have prayed for quashing the final result as published in the News Paper dated 19.11.1998 (Annex.A/1) for the post of Senior Clerk and further for a direction to the respondents to consider the case of the applicants from the stage of interview with all consequential benefits.

2. Applicants' case is that the respondent-department had organised a selection vide their Notification dated 11.8.1998 (Annex.A/3), for the post of Senior Clerk. The applicants had appeared in that selection and had passed the written test. They were also called to appear in the Type Test. However, their names did not appear in the final select list as published in the Annex.A/1. It is the contention of the applicants that in terms of Railway Board's letter dated 3.2.1997 (Annex.A/8), they should have been allowed promotion on provisional basis with the stipulation to qualify the prescribed type-writing test within two years from the date of promotion. Feeling aggrieved the applicants have, filed this Application.

3. No reply has been filed by the respondents despite service.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. It is seen from the Railway Board's letter dated 3.2.1997 (Annex.A/8), that the question of promotion from Group 'D' to Group 'C', was under consideration in consultation with the JCM-DC Meeting and it was decided that henceforth, promotions from Group 'D' to Group 'C' <sup>under</sup> 33-1/3 % quota in the Ministerial cadre and for Clerks

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to Senior Clerks against a Limited Departmental Competitive Examination quota may be allowed on provisional basis and the concerned staff may be given two years time from the date of promotion to qualify the prescribed type-writing test ; and if they fail to qualify the type-writing test within this period they will be liable to be reverted. We consider it appropriate at this stage to extract below Railway Board's letter dated 3.2.1997 :-

" Copy of Railway Board's letter No. E(NG)I-96/CFP/19 dated 03.02.1997 (RBE No. 23/97) addressed to the General Managers, All Indian Railways and others. .

Sub : Promotion of Group 'D' employees to Group 'C' posts in the Ministerial Cadre - Possession of typing qualification.

Arising out of a demand raised in the Departmental Council under the Scheme of JCM Instructions were issued in this Ministry's letter of even number dated 16.12.96 that employees promoted from 7.4.94 to 6.4.96 in terms of para 1(i) of Board's letter No. E(NG)I-93/CFP/41 dated 7.4.94 may be given additional period of two years to acquire the typing qualification and till they acquire such qualification their promotions will continue to be provisional.

2. The matter was discussed further in the JCM-DC Meeting held on 9/10.1.97. Pursuant to these discussions it has been decided, in partial modification of Para 1 (ii) of this Ministry's letter No. E (NG) I -93 / CFP 41 dated 7.4.94 that henceforth promotions from Group 'D' to Group 'C' against 33-1/3% of quota in the Ministerial cadre and from Clerks to Sr. Clerks against LDCE quota may be allowed on provisional basis and the concerned staff may be given two years time from the date of promotion to qualify the prescribed typewriting test; and if they fail to qualify the typewriting test within this period, they will be liable to be reverted."

6. It is very clear that the Railway Board had issued Instructions in February 1997 regarding provisional appointment to the post of Senior Clerk through a limited departmental competitive examination. The Limited departmental competitive examination was conducted in the year 1998. Thus, there has been a lapse on the part of the respondent department not to have taken Railway Board's

*(Signature)*

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Instructions into account for promoting the candidates as Senior Clerk on provisional basis. It has already been mentioned that the respondents have not filed their reply contesting the position as stated above. We are of the view that ends of justice would be met if the applicants are given provisional appointment as Senior Clerk on the basis of the limited departmental competitive examination held pursuant to the Notification dated 11.8.1998, subject, ofcourse, to passing the type-writing test within a time frame from the date of such appointment, provided, further that the applicants are found eligible for such appointment as per their merit. Accordingly, we pass the order as under :-

The O.A. is allowed. The respondents are directed to consider the case of the applicants for promotion provisionally on the post of Senior Clerk on the basis of Limited Departmental Competitive Examination held pursuant to the Notification dated 11.8.1998 (Annex.A/3) without their passing the type-writing test provided, they are otherwise eligible. Such appointment will be further subject to their passing the Type Test within a period of one year from the date of such appointment and the respondents are directed to give atleast two chances during this one year to the applicants to pass the Type-writing test. Applicants would be liable to be reverted if they do not pass the typewriting test within one year from the date of provisional appointment. No costs.

Gopal Singh  
(GOPAL SINGH)

Adm. Member

BS  
(B.S.RAIKOTE)

Vice Chairman

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