

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT GWALIOR

Original Application No 456 of 2004

Indore this the 18th day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Shri Kunji Lal
S/o Shri Tunda Ram
Aged 46 years
R/o RB-I/119, Central Railway Colony,
Guna (M.P.)

Applicant

(By Advocate – None)

V E R S U S

1. Chief Personnel Officer
West Central Railway
Jabalpur.
2. Divisional Railway Manager (P)
West Central Railway
Bhopal.
3. Loco Foreman
West Central Railway
Guna (M.P.)

Respondents

(By Advocate – Shri Raja Sharma on behalf of Shri V.K.Bhardwaj)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main relief :-

“ii to quash the impugned order dt.17.2.2004(Annexure-A-7)
Whereby the applicant has been ordered to be reverted to a lower post i.e. Group IV.”

2. The brief facts of the case are that the respondent Railways issued a notification inviting applications for appointment of Class IV



employees. The applicant has submitted his application for the post of Peon/Office Peon cum Porters under the disabled quota. Vide order dated 4.6.1986 the applicant has been appointed on the aforesaid posts. Thereafter, the respondent railways have issued a circular dated 11.11.1998 inviting the applications from the departmental candidates for promotion to Class III/Junior Clerk under the Limited Departmental Competitive Examination quota i.e. 33 1/2 percent. After scrutinizing the applications, the applicant was found eligible. Accordingly, he was appointed on the post of Junior Clerk vide order dated 8.6.1999. According to the applicant respondent railways again issued a notification for the post of Sr. Clerk and his name was mentioned in the order dated 29.7.2003 (Annexure-A-5) as standby category. The main contention of the applicant is that he was appointed on the post of Junior Clerk after participating in the examination carried out in 3 subjects and thereafter he was appointed on the said post vide order dated 8.6.1999. Without granting any reasonable opportunity of hearing, the respondent no.2 has issued the order dated 17.2.03/04^(Annexure-A-7) whereby he was reverted to the lower post of Peon i.e class IV. Hence, this OA.

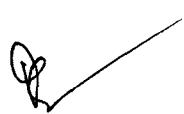
3. None is present on behalf of the applicant. Since, it is an old matter of the year 2004, we are disposing of this OA by invoking the provisions of Rule 15 of Central Administrative Tribunal (Procedures) Rules, 1987. Heard the learned counsel for the respondents and carefully perused the records.

4. The learned counsel for the respondents has argued that the respondent No.2 had issued the notification dated 11.11.98 for filling up the vacancies of Junior Clerk against 33 1/3 percent departmental quota from Group 'D' to Group 'C' employees. In the aforesaid notification it was clearly mentioned that the candidates who will be selected for the post of Jr. Clerk (NP) have to pass the English typing test 30 w.p.m. or Hindi typing test 25 w.p.m. within a period of two



years and till then their promotion/appointment would be provisional. The applicant had submitted his application dated 19.11.98 and in column 12 stated that his training of typing is in progress. Thus the applicant knows that the typing is essential qualification for the post of Jr.Clerk (NP). The respondents have given ample opportunities to the applicant to pass the typing test but he could not pass the typing test. The learned counsel for the respondents further submitted that the request of the applicant for exemption of passing the typing test was not accepted being contrary to rules and intimated to the applicant vide Annexure-A-7. Hence, the action of the respondents is legal and justified.

5. After hearing the learned counsel for the respondents and on careful perusal of the records, we find that in the Annexure-A-3 it is clearly mentioned that the candidates who will be selected for the post of Jr. Clerk (NP) have to pass the typing proficiency test in English 30 w.p.m. or Hindi 25 w.p.m. within a period of two years and till then their promotion/appointment would be provisional. We have perused Annexure-R-1, which is application form of the applicant and wherein in para 12 he himself stated that his training is continuing for typing. Hence, he cannot say that the exemption has been given to the handicap persons who has failed in the typing test. The applicant was afforded the opportunity to appear in the typing test, but he was failed. We do not find any where that the handicap employees were exempted from the typing test. The applicant has not controverted the facts mentioned in the reply by filing any rejoinder. We have perused the orders dated 17.2.2003 and 15.4.2004 wherein we find that the applicant was ordered to be reverted on the post of peon on the ground that he could not qualify the typing test conducted by the respondents, which was a mandatory requirement for the post of Jr. Clerk.



6. Considering all the facts and circumstances of the case, we are of the considered view that this OA is liable to be dismissed. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

**M.P.Singh)
Vice Chairman**

पृष्ठांकन सं. ओ/व्या..... जबलपुर, दि.....
पत्रिलिपि प्रादो दिनः

(1) संतील, उत्तर प्रदेश, २०१५, १०८ वा. अवलम्बन
 (2) आग्रेस्ट द्वीप, उत्तर प्रदेश, २०१५, १०८ वा. काउंसल S. Mehta ०२१२२१२३८९
 (3) प्रत्यार्थी द्वीप, ब्रिटेन, २०१५, १०८ वा. काउंसल V.K. Bhadra ०२१२२१२३८९
 (4) द्विरामाल, कंडा द्वीप, उत्तर प्रदेश, २०१५, १०८ वा.

सूचना एवं आवर्त्यक कायदाएँ

~~Issued~~
26.10.05