

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(14)

ORDER SHEET

ORDERS OF THE TRIBUNAL

21.12.2011

OA No. 520/2010

Mr. C.B. Sharma, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.

It is a DB matter. DB not formed today.

List it on 05.01.2012.

Anil Kumar

(Anil Kumar)
Member (A)

ahq

05-01-2012

OA 520/2010

Mr. C.B. Sharma, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.
Murd. O.A. is disposed of by
a separate order on the separate
Sheets for the reasons recorded
therein.

Anil Kumar

[Anil Kumar]
Member (A)

K.S. Rathore

[Justice K.S. Rathore]
Member (J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 520/2010

DATE OF ORDER: 05.01.2012

CORAM

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

Guru Dayal Prajapat S/o Shri Chhaju Lal Prajapat, aged about 40 years, R/o 2/L/215, Indra Gandhi Nagar, Jagatpura, Jaipur, and presently working as Clerk, office of the Chief Mechanical Engineer, North Western Railway, Head Quarter, NWR, Jawahar Circle, Jagatpura, Jaipur.

...Applicant
Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Head Quarter, NWR, Jawahar Circle, Jagatpura, Jaipur.
2. Chief Personnel Officer, North Western Zone, North Western Railway, Head Quarter, NWR, Jawahar Circle, Jagatpura, Jaipur.
3. Chief Mechanical Engineer, North Western Railway, Head Quarter, NWR, Jawahar Circle, Jagatpura, Jaipur.

...Respondents
Mr. V.S. Gurjar, counsel for respondents.

ORDER (ORAL)

The present Original Application is directed against the order dated 26.11.2010 (Annex. A/1) by which the applicant has been declared fail in the English type test in all the three chances provided to him, which is permissible as per the policy of the respondents, and as such he has been reverted back to the post of Peon (Group 'D') from the post of Clerk.



2. It is not disputed that the applicant has not cleared the English type test in the three chances. The submission of the applicant is that he has been declared pass in the Hindi type test organized by the Govt. of India, Ministry of Home Affairs, Department of Official Language, Hindi Teaching Scheme (Exam. Wing), New Delhi. If the applicant would have given the option for Hindi type test, as he has been declared successful in the Hindi type test conducted by the Department of Official Language, he can eligible to hold the post of Clerk but he himself given the option for English type test vide Annexure R/4 submitted along with the reply to the OA.

3. Learned counsel appearing for the applicant placed reliance upon the order passed by this Bench of the Tribunal in OA No. 118/2011 (Ram Kishore vs. UOI & Ors.) and OA No. 123/2011 (Padam Singh Verma vs. UOI & Ors.) decided on 12th July, 2011. In the order dated 12th July, 2011 passed by this Bench of the Tribunal reliance has been placed upon the case of **Kamlesh Kumari vs. Union of India & Ors.** decided on 28.04.2011 (OA No. 435/2010). In the case of Ram Kishore & Padam Singh Verma, both applicants had availed the three chances but declared fail and the result of one of the test was cancelled, therefore, the fourth chance was given. Although this order is not fully applicable to the facts and circumstances of the present case, but looking to the peculiar facts & circumstances of the present case that the applicant has been declared successful in the Hindi type test and as per the policy laid down by the respondents, the person who is working on the post of group 'D'



is eligible for promotion on the post of Clerk if he has been declared successful in the type test either in Hindi type test or in English type test. Admittedly, the applicant has been declared successful in the Hindi type test. Legally, he is entitled to hold the post of Clerk. Thus, we deem it proper to direct the respondents either to provide the applicant fourth chance to undertake in the English type test as per his option or his case may be considered for the post of Clerk in view of the certificate issued by the Govt. of India, Ministry of Home Affairs, Department of Official Language, Hindi Teaching Scheme (Exam. Wing), New Delhi, which is placed along with the rejoinder to the reply as Annexure A/13.

4. With these observations and directions, the Original Application stands disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

kumawat

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)