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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

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**ORDER SHEET**

**ORDERS OF THE TRIBUNAL**

2.5.2011

OA 123/2011

*Reply filed*  
Mr. Sunil Samdariya proxy counsel for  
Mr. P.V. Calla, counsel for applicant.  
Mr. B.K. Pareek proxy counsel for  
Mr. T.P. Sharma, counsel for respondents.

*By*  
Leaned proxy counsel for the respondents seeks and is granted  
further four weeks time to file rejoinder.

Put up on 11.7.2011.

*Anil Kumar*  
(Anil Kumar)  
Member (A)

*K.S. Rathore*  
(Justice K.S. Rathore)  
Member (J)

*Rejoinder*

*not filed*

*By*  
mk

11.7.2011

Mr. S.S. Joshi, Proxy Counsel for  
Mr. P.V. Calla, Counsel for applicant  
Mr. B.K. Pareek, Proxy Counsel for  
Mr. T.P. Sharma, Counsel for respondents

Heard. The OA is disposed of by  
a separate order.

*Anil Kumar*  
(Anil Kumar)  
M(A)

*K.S. Rathore*  
(Justice K.S. Rathore)  
M(J)

*Zamir*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH

Jaipur, this the 12<sup>th</sup> day of July, 2011

**CORAM**

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

**1. ORIGINAL APPLICATION NO. 118/2011**

Ram Kishore son of Shri Brij Bhushan aged about 29 years, resident of Quarter No. 238-F, Railway Colony, Kota Junction, Kota. At present working as Junior Clerk, under CPWI, Vikramgarh Aloit, West Central Railway, Kota Division, Kota.

.....Applicant

(By Advocate: Mr. S.S.Ola proxy to Mr. P.V. Calla)

VERSUS

1. Union of India through General Manager, West Central Zone, West Central Railway, Jabalpur (M.P.).
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.
3. Senior Divisional Personnel Officer, West Central Railway, Kota Division, Kota.

.....Respondents

(By Advocate: Mr. B.K. Pareek proxy to Mr. T.P. Sharma)

**2. ORIGINAL APPLICATION NO. 123/2011**

Padam Singh Verma son of Shri Atar Singh Verma aged about 32 years, Junior Clerk, O/o Divisional Railway Manager, West Central Railway, Kota Division, Kota, resident of 76, Poonam Colony, Gali No. 5, Infront of Deep Dry Cleaners, Ladbura, Kota.

.....Applicant

(By Advocate: Mr. S.S.Ola proxy to Mr. P.V. Calla)

VERSUS

1. Union of India through General Manager, West Central Zone, West Central Railway, Jabalpur (M.P.).
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.



3. Senior Divisional Personnel Officer, West Central Railway,  
Kota Division, Kota.

.....Respondents

(By Advocate: Mr. B.K. Pareek proxy to Mr. T.P. Sharma)

**ORDER (ORAL)**

As the common question of law & facts are involved, both these OAs are disposed of by a common order.

2. In OA No. 118/2011 (Ram Kishore), the applicant has claimed for the following reliefs:-

"The respondents may be directed to empanelled the applicant for the post of Senior Clerk as the applicant has already cleared the selection for the post of Senior Clerk and further respondents may be directed to allow the applicant to work as Senior Clerk with all consequential benefits.

The reversion of the applicant as ordered by the order 6.9.2010 Annexure A/1 may kindly be declared illegal.

Any other appropriate order or directions which is deemed just and proper by this Hon'ble Tribunal may also be passed in favour of the applicant.

The Original Application may kindly be allowed through out with costs."

2. In OA No. 123/2011 (Padam Singh), the applicant has claimed the same relief, which reads as under:-

"That from the facts and grounds mentioned hereinabove, the applicant has got a very good *prima facie* case and balance of convenience lies in his favour, therefore, it is prayed that during the pendency of the Original Application, the operation of the impugned order dated 6.9.2010 Annexure A/1 may kindly be stayed and the respondents be directed to allow the applicant to work as Senior Clerk on provisionally.



Any other appropriate order or directions which is deemed just and proper by this Hon'ble Court may also be passed in favour of the applicant."

3. Learned counsel for the applicant submits that the controversy involved in these aforesaid OAs is squarely covered by the judgment rendered this Bench of the Tribunal in the case of **Kamlesh Kumari vs. Union of India & Others** decided on 28.04.2011 [OA No. 435/2010]. We have summoned the case file of OA No. 435/2010 to consider whether the controversy involved in this OA is similar and the judgment rendered by this Tribunal in this OA is applicable to the facts & circumstances of the aforesaid OAs. We have examined the relief claimed by the applicant in OA No. 435/2010 by which the applicant had asked for quashing the setting aside the termination order dated 30.06.2010 (Annexure A/1) and show cause notice dated 11.06.2010 (Annexure A/2). He had further prayed that respondents be directed to declare his result of typing test conducted on 25.05.2010 and they may be directed to take the applicant on duty with continuity of services and make the payment of salary for the period involved. In this OA, the main controversy was with regard to the typing test. At the time of appointment, there was no condition of passing the typing test. It was also mentioned in Para No. 2 (e) of Master Circular No. 13, the applicant may be exempted from typing qualification for appointment to clerical posts, if found otherwise qualified. The applicant was appointed in the year 2000. The applicant appeared in the typing test but the result of the said typing test was cancelled vide order dated 09.06.2010, Therefore, the Tribunal after quashing and setting aside the impugned order dated 30.06.2010 directed the respondents to reinstate the applicant forthwith with all consequential



benefits and further directed to hold the typing test of the applicant and pass appropriate order after declaration of result of the typing test.

4. In the OA No. 118/2011 (Ram Kishore), the controversy is with regard that the applicant was reverted to the post of Group 'D' as he failed to pass the typing test within two years from the date of their appointment. The further controversy is that he has been given three chances whereas other officials were given four chances to clear the typing test. It is not disputed that the applicant had availed three chances but could not ~~appear~~ in the typing test held on 04.04.2009 due to sickness. The same is the case of Padam Singh in OA No. 123/2011. He has been allowed only three chances but other officials were allowed four chances to clear the typing test.

5. Having considered the rival submissions of the respective parties and material available on record, we are of the view that the controversy involved in the aforesaid OAs is covered by the judgment rendered by this Tribunal in OA No. 435/2010 decided on 28.04.2011. Although the facts & circumstances are altogether different but contention with regard to providing fourth chances to appear in the typing test is common. Therefore, considering the merit of the case, admittedly Ram Kishore in OA No. 118/2011 availed three chances but he could not availed the fourth chance on 04.04.2009 due to sickness. If Ram Kishore is able to satisfy the respondents that at the time of typing test on 04.04.2009 he was sick and to this effect, he is able to submit the Medical Certificate, he may be allowed to appear in the fourth chance. The applicant, Padam Singh, in OA No. 123/2011 was



not allowed fourth chance. Therefore, we deemed it proper to direct the respondents to grant the applicants a fourth chance to pass the typing test. If they are declared successful, they may be appointed as Clerk cum Typist. If the applicants are unable to pass the typing test, the reversion order passed by the respondents shall remain in operation.

6. With these observations, both these OAs shall stands disposed of accordingly.

◆ (ANIL KUMAR)  
MEMBER (A)

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

AHQ

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