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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00055/2014

Date of Decision : 4.12.2014

Reserved on: 02.12.2014

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Fateh Singh son of Sh. Sunder Singh, R/o H.No.1616, Aman Colony, Village
Dhanas, U.T., Chandigarh.

Applicant


Versus

1. Union of India through the Secretary, Ministry of Home Affairs,
Government of India, North Block, New Delhi.
2. Chandigarh Administration, through Home Secretary, Chandigarh
Administration, 4th Floor, UT Secretariat Building, Sector 9/D,
Chandigarh.
3. The Chief Engineer, Union Territory, 1st Floor, UT Secretariat Building,
Sector 9/D, Chandigarh.
4. The Superintendent Engineer, P.H. Circle-, 3rd Floor, UT Secretariat
Building, Sector 9/D, Chandigarh.

Respondents

Present: Mr. Arvind Thakur, counsel for the applicant
None for the respondents

ORDER
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the
Administrative Tribunals Act, 1985, seeking quashing of the order dated
13.12.2013 (Annexure A-8) passed by respondent no.4 and direction to the
respondents to appoint the applicant as Clerk. 

2. Averment has been made in the OA that the applicant whose date of birth is 01.01.1966 joined as Peon in the office of EE, CPWD, Chandigarh. He passed his BA in 1990. On the formation of the Municipal Corporation, Chandigarh in 1996, he was transferred to the Municipal Corporation, Chandigarh vide notification dated 18.05.1996. Certain juniors of the applicant who continued with the Chandigarh Administration were appointed to the post of Clerk but the applicant was not considered. The applicant later reverted to the Chandigarh Administration and in the Municipal Corporation, some of the persons junior to him had been appointed as Clerks while the applicant was not considered there also. The applicant kept representing to the respondents from the year 2006 onwards to be considered for the post of Clerk against the 15% quota. Since he did not get a favourable response, he approached the C.A.T. Chandigarh Bench vide OA No.341/CH/2012 seeking direction to the respondents to consider his case for appointment as Clerk against the 15% quota for Group 'D' employees. Directions were issued accordingly by the Tribunal vide order dated 13.12.2012 (Annexure A-2).

3. It is further stated that the applicant was called for typing test on 03.03.2013, but the test was not held. This also happened on 06.04.2013 and ultimately the typing test was conducted on 22.04.2013. As evident from the impugned order dated 13.12.2013 the typing speed of the applicant came to be 29.5 W.P.M. and the same was accepted by the Chief Engineer, UT Chandigarh. The name of the applicant was proposed for promotion before

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the DPC for final approval vide letter dated 12.04.2013 (Annexure A-5). For the next eligible candidates a typing test was finally conducted on 26.10.2013 under the supervision of Committee Members of the respondents and the Instructor of Government ITI for Women, Chandigarh. Of the 30 applicants, 17 persons appeared and as per the report of the Instructor, two persons qualified the test. Although the case of the applicant was considered along with the two other persons who qualified the test but the respondents declared the applicant ineligible for appointment to the post of Clerk against the 15% quota meant for Group 'D' and the representation of the applicant was rejected by the speaking order dated 13.12.2013 (Annexure A-8). Hence this OA.

4. In the grounds for relief, it has been stated that the impugned order reflects bias and malafides against the applicant as the respondents have taken a contradictory stand by observing that the formula of checking of typing test of the applicant by the Committee constituted for the purpose and the formula of checking typing speed of other candidates conducting by Instructor ITI, Chandigarh is entirely different. The action of the respondents itself reflects malafide as the typing test of the applicant was got conducted on 22.04.2013 and after almost 08 months it cannot be said in any eventuality that it was entirely different. The respondents without analyzing or scrutinizing the contents of the test and by adopting all together different yardsticks had declared applicant unfit / ineligible which smacks of prejudice and ill will besides non application of mind and reason for the same.

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5. In the written statement filed on behalf of the respondents the facts of the matter have not been disputed. It has further been stated that an Agenda item was placed before the constituted Departmental Promotion Committee (Class-III) on 12.11.2013 to consider the fitness of eligible candidates namely Shri Fateh Singh who was declared passed in the typing test at the speed of 29.5 W.P.M. (rounded off to 30 W.P.M.) on 22.04.2013 by the Committee constituted by the answering respondent and Shri Om Parkash and Parveen Kumar, Peons who had also been declared as having passed the typing test on 22.10.2013 by a separate Committee which included an Instructor of Govt. ITI for Women, Chandigarh, for filling the posts of Clerks meant for 15% quota of Group 'D' employees. The members of the Committee observed during the meeting that the method of checking of typing speed of the applicant Shri Fateh Singh applied by the Committee constituted by the answering respondent was different from the method of checking of typing speed of other candidates namely Shri Om Parkash and Shri Parveen Kumar. The method applied for checking of typing speed in the case of the applicant and other candidates namely Shri Om Parkash and Shri Parveen Kumar is detailed as under:-

a) **Shri Fateh Singh (applicant)**

| | | |
|----------------|---|-------------|
| Time | = | 5 Minutes |
| Typing Strokes | = | 1760 |
| Words | = | 352 |
| Mistakes | = | 57 |
| <hr/> | | |
| Actual Speed | = | 295 29.5 |

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b) **Shri Om Parkash**

| | | |
|----------------|---|-----------|
| Time | = | 5 Minutes |
| Typing Strokes | = | 1144 |
| Words | = | 229 |
| Speed | = | 46.00 |
| Mistakes | = | 09.00 |

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|--------------|---|-------------|
| Actual Speed | = | <hr/> 37.00 |
|--------------|---|-------------|

c) **Shri Parveen Kumar**

| | | |
|----------------|---|-----------|
| Time | = | 5 Minutes |
| Typing Strokes | = | 1224 |
| Words | = | 244 |
| Speed | = | 48.80 |
| Mistakes | = | 13.00 |
| | | 295 |

| | | |
|--------------|---|-------------|
| Actual Speed | = | <hr/> 35.80 |
|--------------|---|-------------|

Copies of Typing tests are annexed as Annexure R-II, R-III and R-IV. The members of the Committee checked the typing speed of the applicant during the meeting on the method applied in the case of S/Shri Om Parkash and Parveen Kumar by the Instructor of Govt. ITI for Women, Chandigarh and the result of the typing of the applicant was as under:-

| | | |
|----------------|---|-----------|
| Time | = | 5 Minutes |
| Typing Strokes | = | 1760 |
| Words | = | 350 |
| Speed | = | 70.40 |
| Mistakes | = | 57.00 |

| | | |
|--------------|---|-------------|
| Actual Speed | = | <hr/> 13.00 |
|--------------|---|-------------|

Thus, according to the aforesaid method, the applicant was declared as 'failed' in view of the number of mistakes.

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6. The members of the Departmental Promotion Committee during its meeting held on 12.11.2013 recommended that the typing test of the applicant be got checked / authenticated either from ITI Sector 28 or ITI Sector 11, Chandigarh and also sought the instructions regarding calculation of typing speed (English). The matter was referred to the Principal, Govt. Industrial Training Institute for Women, Chandigarh for providing the requisite instructions as well as to check typing speed of the applicant so as to reach a logical conclusion. The Principal, Government, Industrial Training Institute for Women, Chandigarh, vide Endst. No.6222 dated 03.12.2013 forwarded a copy of the instructions issued by the Council of Scientific and Industrial Research, New Delhi vide their letter no.7-4(3)/2006-R&A dated 12.03.2007 (Annexure R-V) regarding criteria for evaluation of type scripts of typewriting test in Hindi / English to the answering respondent along with the result of typing test of the applicant which was checked by them from the Instructor. Shri Surjit Singh, Expert Stenography / Computer Trades, Sr. Faculty-cum-Training and Placement Officer, Govt. ITI for Women Sector 11, Chandigarh who calculated typing speed of Shri Fateh Singh, Peon as "Minus Zero" (Annexure R-VI).

7. Thus the members of the Committee were informed that the Typing test of Shri Fateh Singh was checked by the Committee constituted for the purpose with the formula circulated by the Council of Scientific and Industrial Research, New Delhi as received through the Principal, Govt. Industrial Training Institute for Women, Sector 11, Chandigarh vide his letter

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no.GITIWF-098/2013/6233 dated 03.12.2013 and according to which the typing speed of the applicant Shri Fateh Singh was found as (-) Zero and hence he has been found ineligible and unfit for appointment to the post of Clerk under 15% share quota meant for Class-IV employees as passing of Typing Test is pre-requisite for considering Class-IV employee to the post of Clerk as provided in the Notified Recruitment Rules. An Agenda item was thereafter again placed before the Departmental Promotion Committee in its meeting held on 11.12.2013 (Annexure R-VII) and it was recommended to promote S/Shri Om Parkash and Parveen Kumar for appointment to the post of Clerk from amongst the Class-IV Employees (Ministerial Cadre) who have passed the Typing Test by declaring the applicant as ineligible for the post of Clerk. The recommendations of the Committee are re-produced below:

"The Departmental Promotion Committee accordingly examined the record in respect of the officials viz. Shri Fateh Singh, Peon S/o Sh. Sunder Singh, Sh. Om Parkash, Peon S/o Sh. Ram Manoj and Shri Parveen Kumar, Peon, S/o Sh. Bant Ram and assessed them as under:-

| Sr. No. | Name S/Shri | Designation | Qualification and Typing Speed | Assessment |
|---------|-------------------------------------|-------------|--------------------------------|-------------------------|
| 01. | Fateh Singh S/o Sh. Sunder Singh | Peon | Graduate (-) W.P.M. | "UNFIT" |
| 02. | Om Parkash S/o Sh. Ram Manoj | Peon | Matriculation 37 W.P.M. | "FIT" (By Appointment). |
| 03. | Parveen Kumar S/o Sh. Bant Ram | Peon | Matriculation 35.80 W.P.M. | "FIT" (By Appointment). |

Minutes of the Committee are annexed as Annexure R-VIII. Thus, the applicant was informed by passing a detailed speaking order dated



13.12.2013 rejecting his claim for appointment to the post of Clerk against 15% share quota meant for Group 'D' quota.

8. Arguments advanced by the learned counsel for the applicant were heard. He reiterated the facts and grounds taken in the OA and stated that there was no case for rechecking the typing test of the applicant, the Department itself had conducted the test and he had been declared as qualified in the same. He stated that the applicant has been targeted since he has been representing for his promotion since long and had filed Contempt Petition against the respondents for non-implementation of the order in OA No.341/CH/2012. Learned counsel also stated that the applicant could be considered for promotion and time allowed for him to pass the typing test as had been allowed in some other cases.

9. Since none was present to represent the respondents, Rule 16 of the C.A.T. (Procedure) Rules, 1987 is invoked and we proceed to decide the matter.

10. From the material placed on record by the respondent Department it is seen that due to the large number of mistakes (57) in the material typed by the applicant, he could not qualify the typing test that was required to be conducted / marked in accordance with the letter no.7-4(3)/2006-R&A, dated 12.03.2007 (Annexure R-V). Since the applicant could not qualify the typing test, he was found ineligible and unfit for appointment to the post of Clerk under 15% quota for Clause-IV employees. The persons



who have actually been promoted had qualified the typing test as per these instructions and hence they have been promoted. These persons S/Shri Om Parkash and Parveen Kumar have also not been impleaded by the applicant in the OA. Hence, we are left with no option but to conclude that the applicant could not qualify the typing test and hence was ineligible for promotion as Clerk under 15% quota. OA is rejected. No costs.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 4.12.2014

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