

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1232/2013
M.A.No.938/2013

Order reserved on 17th September 2015

Order pronounced on 30th March 2016

**Hon'ble Mr. Sudhir Kumar, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)**

1. Mahesh Kumar s/o Hoshiyar Singh
A-7, Sagar Tailor, Rohini Road
Shahabad, Daulatpur
Delhi-42
2. Kiran d/o Mr. Jawahar Singh
H.No.386
Shahabad, Daulatpur
Near Ekash Nursing Home
Delhi-42
3. Rekha Yadav d/o Indraj Singh Yadav
c/o Hoshiyar Singh
A-7, Sagar Tailor, Rohini Road
Shahabad, Daulatpur
Delhi-42

.. Applicants

(Mr. Ajay Amritraj, Advocate)

Versus

1. Staff Selection Commission
Through the Chairman
Block No.12
CGO Complex, Lodhi Road
New Delhi-3

.. Respondent

(Mr. S M Arif, Advocate)

O R D E R

Mr. Sudhir Kumar:

M.A.No.938/2013

This M.A. filed by the three applicants of this O.A. for being permitted to join together in filing a single O.A. is allowed.

O.A. No.1232/2013

The three applicants of this O.A. belong to SC (applicant No.1) and OBC (applicant Nos. 2 and 3) categories. They had appeared at the Stenographer Grade (C and D) Examination, 2012 in terms of the Advertisement, which has been enclosed at Annexure A/1 (colly.). The applicants are aggrieved that their cases have not been considered for selection in the concerned examination in spite of the fact that in the skill test, which was qualifying in nature, they had performed as per the minimum standard fixed, but rather the respondent- Staff Selection Commission ('SSC' for short) has selected those candidates, who were much below the standard so fixed for skill test, only on the basis of marks obtained in the written examination, even though the selected candidates had not qualified at the skill test according to the minimum parameter fixed for that. Their submission is that in paragraph 2 (iii) and (iv) of the Declaration of final result of result of Stenographer Grade (C & D) Examination 2012 (Annexure A-2), cut-off for mistakes in respect of skill test had been prescribed to be as follows:-

“(iii) Select List for Stenographer Grade ‘D’: upto 7% mistakes for UR and upto 10% mistakes for all reserved category candidates.

(iv) Reserve List for Stenographer Grade ‘D’ : upto 10% mistakes for UR and upto 15% mistakes for all reserved category candidates.”

2. The applicants have further pleaded that the respondent-SSC has not filled all the notified vacancies, and 476 vacancies were yet to be filled by it, but still the respondents have not paid any heed to the representations given by the applicants through Annexure A/5 (colly.). They have, therefore, assailed the actions of the respondents on the ground that the marks of the written test can be considered only in respect of those candidates, who qualify the skill test, as per the mode of selection prescribed in the Advertisement, and even though the applicants had committed less mistakes than the other selected candidates, who

had actually failed to qualify the skill test on the criterion fixed by the respondents, the applicants have still been denied appointments. In the result, they have prayed for following reliefs:-

“(a) Direct the Respondents to consider the applicant for the post of Stenographer Group D pursuant to Stenographers (Grade C and D) Examination, 2012; and

(b) To pass such other order/orders as this Hon’ble Tribunal may deem just and proper in the facts and circumstances of the case.”

3. The respondent-SSC filed its counter reply on 01.10.2013, submitting the detailed analysis of the post code/preference code, State code and cut-off of marks in respect of the three applicants for both Groups ‘X’ and ‘Y’, as per Annexure R/1 annexed to the counter reply, as follows:-

S. N o.	Name candidate/ of the category/ Roll No.	Post Code/ Preference C/D	State Code	Cut off marks in written test for Reserved Categories		Cut off percentage for mistakes in skill test for reserved category		Marks scored in written test	% of mistakes committ ed in skill test	Reasons for non selection			
1	2	3	4	5		6		7	8	9			
1.	Sh. Mahesh Kumar (SC) No. 2201000782	Steno C/ CD	A	107.50	106.25	SL	RL	66.50	8.61%	Not within the cut off marks in written test as per Col.5			
			B	137.00	107.75								
			D	106.5	101.75								
		Steno-D Group-X	A	116.25	105	10%	15%						
			B	121.75	93.5								
			E	85.5	85.5								
		Group -Y	F	118.75	114								
			A	91.25	73.25								
			C	81.00	81.00								
2	Ms. Kiran (OBC), Roll No. 22001507971	Steno C/ CD	A	125	103.25	SL	RL	75.75	6.20%	-do-			
			B	149.25	104.25								
			D	110.25	97.25								
		Group-X Steno-D	A	124.5	113.75	10%	15%						
			B	132.5	91.25								
			E	136.5	110.25								
		Group -Y	F	106.75	94.25								
			A	86.5	78.5								
			C	86.5	79.0								
			D	132.5	111.25								
			F	149/5	88.25								

3	Ms. Rekha Yadav (OBC) Roll No. 2201004177	Steno D/ DC Group-Y	A C D F	86.5 86.5 132.5 149.5	78.5 79.00 111.25 88.25		10%	15%	97.50	30.03% Mistakes are more than the cut off percentage

4. It was, therefore, submitted that the applicant Nos. 1 and 2 of the present O.A. had scored less than the cut-off marks fixed by the respondent-Commission, and hence both of them could not be included either in the select list or the reserved list. It was further submitted that applicant No.3 had scored 97.50 marks, and had qualified for skill test for Stenographer Grade 'D' post in Group 'Y' for the State Codes 'A', 'C', 'D' and 'F', and in Group 'X' for the State Codes 'A', 'B', 'E' and 'F'. Since she had qualified to appear in the interview, but had committed 30.03% mistakes in Stenographer 'D' skill test, and 12.22% mistakes in Stenographer 'C' examination, in respect of which the percentage of mistakes allowed for reserved category candidates to be included in select list was much lower, and, therefore, her name also was not included in the select list/ reserved list.

5. It was, therefore, submitted by the respondent-Commission that it has selected only those candidates, who have qualified the skill test, and

obtained marks above the cut-off marks in the written examination, while all the three applicants of the present O.A. did not fulfil the selection criteria, as given in detail above, and as a result, they were not included in the select list/reserved list.

6. It was submitted that the applicants are only trying to mislead this Tribunal by placing incomplete information before this Tribunal, because it was clearly prescribed in the Advertisement that the skill test will be only qualifying in nature, and only those candidates, who obtain qualifying marks in the written examination, as may be prescribed by the Commission, will be called for the skill test. It was also submitted that the aim of the respondents is to select the best out of the available candidates, and the Commission has not deviated from the procedure, and no candidate, who did not qualify the standard fixed by it, has been selected. It was denied that any illegal, arbitrary, unjust and discriminatory action has been taken by the respondents and, therefore, it was prayed that the O.A. be dismissed.

7. The applicants filed their rejoinder on 30.01.2014, more or less reiterating their contentions, as made out in the O.A. It was reiterated that applicant No.1 had fully qualified for Stenographer Group 'D' after getting 66.50 marks in the written test and 8.61 mistakes in skill test; applicant No.2 had qualified for Stenographer Group 'D' after getting 75.75 marks in written test and 6.20 mistakes in skill test; and applicant No.3 had qualified for both Stenographer Groups 'C' and 'D' after getting 97.50 marks in written test and 12.22% mistakes in skill test. It was submitted that the marks obtained by the applicants in the written test were above the cut-off

marks, i.e., 50.00 for SC category (Group 'D') for applicant No.1, 62.00 for OBC category (Group 'D') for applicant Nos. 2 and 3, and 96.00 for OBC category (Group 'C') for applicant No.3, and, therefore, their candidature was wrongly rejected by the respondent-Commission. It was prayed that applicant No.3 may be considered for reserved list, as her mistakes were below 15 %, whereas applicant Nos. 1 and 2 may be considered for select list, and the O.A. may be allowed.

8. Heard. We have given our anxious consideration to the facts of the case and have gone through the pleadings.

9. Learned counsel for applicants very laboriously took us through pages 43, 44 and 45 of the paper book of the O.A. in respect of candidature of the three applicants. However, we find that the marks, as given by them, tally with the tabular form marks of theirs, as supplied by the respondents, and reproduced by us in the preceding paragraph. Since we do not find that applicants had qualified in the skill test, as per the requisite mistakes standard fixed by the Commission, merely on the basis of their cut-off marks in the written test, they cannot be allowed to seek appointments against the posts they had applied for.

10. There is also no merit in the contention that since 476 posts of Stenographer had still not been filled up by the Commission, their candidature should be considered against those vacancies, as it is the prerogative of the employer to select the best among the candidates available, and applicants have not been able to point out any malpractice or prejudicial action taken by the respondents against them. It is just that their qualifying marks and the percentage of mistakes fell short of the

qualifying marks and percentage of mistakes prescribed in respect of the respective categories, against which they had applied for. Such fortuitous circumstances do not give any rise to any cause of action in the hands of the applicants to assail the process of examination, as conducted by the respondent-Commission, and, therefore, the O.A. is dismissed, but there shall be no order as to costs.

(Raj Vir Sharma)
Member (J)

/sunil/

(Sudhir Kumar)
Member (A)