

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING: BILASPUR

Original Application No.203/00583/2014

Jabalpur, this Tuesday, the 17th day of July, 2018

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Kartik Bhagat, S/o Late Thakur Bhagat,
Aged about 46 years, Working as Post Gangman,
Qr. No. 207/1, Railway Colony, Banglapara, Raigarh,
District Raigarh (C.G.)-496001

-Applicant

(By Advocate –**Shri Srinivas Rao**)

V e r s u s

1. Union of India,
through General Manager,
Zonal Office Building, S.E.C. Railway,
Bilaspur, Pin-495004

2. Sr. Divisional Personnel Officer,
Zonal Office Building, S.E.C. Railway,
Bilaspur, (C.G.)-495004

3. Assistant Personal Officer,
Zonal Office Building, S.E.C. Railway,
Bilaspur (C.G.), Pin-495004

-Respondents

(By Advocate –**Shri Sandeep Shrivastava**)

(Date of reserving the order:-09.07.2018)

ORDER

By Navin Tandon, AM:-

The applicant is aggrieved by the fact that he has been reverted from the post of clerk-cum-typist to Trackman due to his

failure to clear typing test. Hence, he has filed this Original Application.

2. The applicant has sought for the following reliefs:

“8. Relief(s) Sought:

8.1 *That, this Hon’ble Tribunal may kindly be pleased to direct the respondents to conduct a fresh 3 typewriting skill speed test again for the applicant.*

8.2 *That, this Hon’ble tribunal may kindly be pleased to quash the impugned order Annexure A-1 dated 13.8.13.*

8.3 *That, this Hon’ble Tribunal may further be pleased to direct the respondents to conduct a fresh typewriting skill speed test for the applicant.*

8.4 *That, call for the records, if necessary.*

8.5 *Any other relief which the Hon’ble Tribunal may deem fit in the facts and circumstances of the case.”*

3. The facts of the case are that the applicant was promoted on 03.09.2002 (Annexure R-1) to the post of clerk-cum-typist and posted at Raigarh on 07.10.2002 (Annexure A-2). He failed to clear the typing test in 3 attempts as stipulated in the Promotion Order. The applicant and others approached this Tribunal in O.A. No. 1123 and 564 of 2011. The Tribunal on 18.10.2012 (Annexure A-3) ordered as under:-

“(10). In the light of the above position, it is not possible to interfere in the matter and issue a direction to the respondent authorities to conduct a fresh typewriting skill speed test for the applicant. However, the Railway Board may consider giving one more chance to the applicants to pass the

typewriting test as recommended by the respondents, having regard to the doubt which might have been created in the minds of the applicants on the procedure/norms applicable for typewriting in PCs as compared to that in the manual typewriter.”

Accordingly, the respondent department gave one more chance to clear the typing test wherein the applicant again failed. Hence, as per stipulation, the applicant was reverted to Gangman on 13.08.2013 (Annexure A-1).

4. Heard both the parties, and perused the records available on file.

5. During argument stage, learned counsel for the applicant brought to our notice O.M. dated 29.09.1992 issued by Department of Personnel and Training (DoPT) wherein certain exemptions have been provided for clearing the typing test. These stipulations have been adopted by Ministry of Railways vide RBE No. 02/2017 dated 16.01.2017.

5.1 It is the case of the learned counsel for the applicant that these exemptions should be made applicable to the applicant also.

5.2 He also cited the case of one Smt. P. Padmaja Naidu who was granted such relief on 25.07.2017 as per orders dated 20.04.2017 passed by this Tribunal in O.A. No. 203/00795/2015.

6. Learned counsel for the respondents opposed grant of any relief in the O.A. stating that the action of the respondents is as per

stipulations of the promotion order. He also submitted that this case is not maintainable and suffers from res-judicata.

7. Perusal of the O.A. under consideration and the orders passed in earlier O.A. No. 1123 & 564/2011 indicate that no new grounds have been raised. The only difference is that the earlier O.A. was filed after the applicant was issued show cause notice and this O.A. has been filed after his reversion. This Tribunal provided some relief as per Para 10 of its order dated 18.10.2012 extracted in Para 3 above. Accordingly, he was provided another opportunity to clear the typing test, which he failed. Consequently, he was reverted on 13.08.2013.

8. It is also seen that while issuing RBE 02/2017 on 16.01.2017, Railway Board has stated that “The above instructions will take effect from the date of issue of this letter cases already decided in the past need not be re-opened.” Hence, this can not be made applicable in the present case.

9. The case of Smt. P. Padmaja Naidu is subsequent to the date of issue of RBE 02/2017. Hence, it is distinguished from the O.A. under consideration.

10. From the foregoing, it is clear that the applicant failed to pass the typing test as stipulated in the promotion order. He had already approached this Tribunal on the same grounds earlier and

was granted one more chance to clear the typing test, but he could not pass the test. Therefore, we do not find any fault in the action taken by the respondents.

11. Accordingly, the Original Application is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member
rn

(Navin Tandon)
Administrative Member