

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00538/2017

Jabalpur, this Friday, the 16th day of February, 2018

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

Umacharan Tularam,
S/o Late Tularam,
D.O.B. 02.01.1961
Present Post-Jr. Clerk,
Mob.No.9993095949
R/o RB-II, 231A,
Railway Colony
12 Bungalow, Itarsi 461 111(M.P.)

-Applicant

(By Advocate –**Shri S.K. Nandy**)

V e r s u s

1. Union of India,
through its General Manager
West Central Railway
Indira Market,
Jabalpur 482001 (M.P.)

2. Divisional Railway Manager (P)
West Central Railway
Bhopal Division
Bhopal 462010 (M.P.)

- Respondents

(By Advocate –**Shri Arun Soni**)

(Date of reserving the order : 12.02.2018)

ORDER**By Navin Tandon, AM:-**

The applicant is aggrieved by his reversion from the post of Junior Clerk to Peon due to not learning typing test and hence, this Original Application has been filed.

2. The facts of the case are that the applicant was promoted from Peon to Junior Clerk under 16 2/3% departmental quota vide order dated 28.08.2006 (Annexure A-2). It was mentioned in this order itself that the promotion is provisional, subject to the employee acquired typing speed of 25 words per minute (Hindi) or 30 W.P.M (English) within two years, failing which he would be reverted. The applicant was given a show cause notice on 09.09.2016 (Annexure A-3), wherein it was mentioned that the applicant was given three occasions for clearing the typing test on 27.09.2010, 27.09.2011 and 09.04.2014 but the applicant was declared unsuccessful on all the three occasions. The respondents vide their office order No.515/2017 dated 07.06.2017 (Annexure A-1) has reverted the employee from Group 'C' Junior Clerk to (erstwhile) Group D.

3. The applicant in the present Original Application has sought for the following reliefs:-

"8.i Summon the entire relevant record from the possession of the respondent authorities as to how they have

not taken any action within the initial period of 2 years for passing the typewriting test and the reasons for not conducting the typewriting test periodically.

8.ii Set aside the order dated 07.06.2017 (Annexure A-1) holding it to be bad in law as it is not in consonance with the Railway Board order. Further the respondents be directed to exempt the applicant from appearing in the typewriting test by looking at his age and as per the DoPT O& M and the applicant may be allowed to work on the post of Jr. Clerk with all consequential benefits arising thereto;

8.iii Any other order /orders, which this Hon'ble Court deems fit and proper may also be passed;

8.iv Award cost of the litigation in favour of the applicant."

4. The applicant has submitted that the respondents themselves have not followed their own instructions in pith and substance as the applicant was required to be given three chances to pass the typing test within two years. A Group 'C' servant at the fag end of his career and growing age (above 45) should not be forced to appear in typing test, nor should be reverted on the said ground.

4.1 The applicant submits that he has reached the age of 55 years and he should be exempted from passing the typewriting test as per DOPT's instruction issued vide letter dated 22.04.2015 which has been accepted by the Railways vide letter dated 16.01.2017 (Annexure A-5). Annexure A-5 makes a mention of DOPT's OM No.14020/2/91-Estt.(D) dated 29.09.1992 (Annexure A-6),

wherein the employee should be exempted from the typing test in certain conditions.

5. The respondents in their reply submitted that the promotion to Junior Clerk was on the condition that he should qualify the typing test within next two years. This was one of the conditions for promotion in the notification dated 15.05.2006 (Annexure R/1). Since the applicant failed in the typing test on three occasions, he was given a show cause notice on 09.09.2016 (Annexure A-3). The action of the respondents is in conformity with the Railway Board's letter dated 07.04.2000 (Annexure R-2). Therefore, there is no illegality or arbitrariness in the action of the respondents warranting interference of the Court.

6. We have heard the learned counsel for the applicant as well as learned counsel for the respondents and perused the pleadings and documents annexed therewith.

7. It is seen that the date of birth of the applicant is 02.01.1961. Accordingly, his age was above 45 years on the date of his promotion namely 28.08.2006. It is also seen that the Railways themselves have adopted the stipulations made in DOPT's Office Memorandum No. 14020/2/91-Estt.(D) dated 29.09.1992 and those instructions are to take effect from the date of issue of that letter namely 16.01.2017. Since the Railways' own Rules prescribed the

exemption, w.e.f. 16.01.2017, therefore, the impugned order dated 07.06.2017 is not confirming to the own instructions of the respondent-department.

8. Accordingly, the Original Application is allowed. The impugned order (Annexure A-1) is quashed and set aside. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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