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Central Administrative Tribunal, Principal Bench

Original Application No. 329 of 2003
M. A. No. 332/2003

New Delhi, this the 13th day of February, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member(A)

1. Rajender Singh Rana,
S/o Shri Diwan Singh Rana
R/o H. No. 32, P.F. Colony,
Sector-29, Faridabad.
2. Vikas Mehto
S/o Shri Mishri Mehto
R/o Plot No. 10, G-1 Block,
Sai Enclave, Uttar Nagar,
Mohan Garden, New Delhi
3. Ramji
S/o Shri Babu Ram,
R/o R-3, 104/2, Gali No. 5,
Mohan Garden, Uttam Nagar,
New Delhi-59
4. Naval Kishore Prasad
S/o Shri Kamta Prasad Mehto,
R/o B-150, Karan Vihar,
Part - IV,
New Delhi-41
5. Ravindra Singh Rawat,
S/o Shri Manwar Singh Rawat,
R/o M118A, New Rajinder Nagar,
Ghaziabad (U.P.)

.... Applicants

(By Advocate: Shri Shakti Chand Sharma)

Versus

1. Union of India
through the Secretary
Ministry of Labour
Shram Shakti Bhawan, Rafi Marg,
New Delhi.
2. The Central Provident Fund Commissioner
14-B, Hudco Vishala Bldg., Bhikaji Cama Place,
New Delhi
3. The Regional Provident Fund Commissioner
8th and 9th floor, Mayur Bhawan,
Connaught Circus,
New Delhi

.... Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

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M. A. 332/2003 is allowed subject to just

Ms Ag

exceptions. Filing of the joint application is permitted.

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2. The applicants had been promoted as Lower Division Clerks from the post of Peon/Farash as the case would be. The orders so passed were in the year 1993 to 1997 differently in case of different applicants. By virtue of the impugned order, the applicants contend that they are being reverted as Peons/Farash and the said order should be quashed.

3. Some of the facts which are not in dispute are being delineated. It was a departmental promotion. The applicants had passed the written test but failed to qualify in the typing test.

4. The grievance of the applicants in this regard is that though as per the recruitment rules, they had to qualify in the typing test but -

- (a) no time limit was prescribed for passing the typing test; and
- (b) they should be granted another opportunity to do so.

5. After careful consideration of the said submissions, we find that one of the representative orders promoting the applicants was subject to the following conditions -

"i. He will be on probation for a period

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of two years. The period of probation may however be extended at the discretion of appointing authority.

2. He must learn typing at minimum speed of 30 words per minute in English or 25 words per minute in Hindi. Failure to pass the typing test will not make him eligible for annual increment or confirmation in the grade of Lower Division Clerk.
3. He will be governed by other conditions of service as laid down in the Employees' Provident Fund (Staff Conditions of Service) Regulations, 1962.
4. The seniority in the cadre of Lower Division Clerks will be determined according to the priority of his place in the recruitment roster."
6. It is true that no time limit was prescribed within which the typing test had to be passed but whenever no condition in this regard is prescribed, the law would certainly imply a reasonable time to be granted. The applicants have already been granted a reasonable time of more than five years and they have failed to pass the type

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test. Therefore the first submission in this regard must be held to be without merit.

7. As regards the second ground, indeed it would be improper on the part of this Tribunal to interfere in an administrative order. The applicants, if so advised, may represent to the concerned authorities for extending the time limit or for granting another opportunity to pass the said test. The authorities may consider the same in accordance with law. Subject to aforesaid, the O.A. must fail and is dismissed.

V.K. Majotra

(V.K. Majotra)
Member(A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman

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