

9

Central Administrative Tribunal, Principal Bench

Original Application No.2333 of 2001

New Delhi, this the 6th day of September, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman  
Hon'ble Mr. V.K. Majotra, Member(A)

Shri Vishwa Mitter  
Income Tax Inspector  
Office of the CIT(CO)  
R.K.Puram, New Delhi

- Applicant

(By Advocate: Shri S.K. Anand)

Versus

Union of India, through

1. The Secretary  
Ministry of Finance  
North Block, New Delhi
2. The Chairman  
Central Board of Direct Taxes  
North Block, New Delhi
3. The Chief Commissioner of Income Tax (Admn.)  
Central Revenue Building  
I.P. Estate, New Delhi
4. The Director of Income Tax (Examination)  
ARA Centre, E-2, Jhandewalan Ext.  
New Delhi

- Respondents

O R D E R (ORAL)

By Mr. V.K. Majotra, Member(A)

The applicant was initially appointed as Steno  
Typist under respondent no.3 w.e.f. 7.2.64. He was  
declared quasi permanent LDC w.e.f. 31.1.69. He was  
promoted as UDC on provisional basis vide order dated  
31.11.68 on the condition that he could be reverted if he  
did not qualify in the ministerial staff examination which  
was to be held within twelve months of his promotion as UDC  
or if any qualified person was available in the meantime.  
The promotion was also made subject to the approval of the  
DPC. It is claimed that the applicant has continued to  
work as UDC since the date of his promotion without being

Wb



reverted after expiry of twelve months and that he had never been considered by the DPC for regular promotion to the post of UDC. The post of Steno-Typist was upgraded w.e.f. 1.8.69 to that of Stenographer in the grade of Rs.330-560. It is further claimed that applicant became entitled to the post of promotion with all consequential benefits. In the seniority list of UDCs issued in 1974, the applicant is stated to be placed at serial number 304. Another seniority list was circulated on 6.6.81 in which the seniority of the applicant was brought down showing his position at serial number 545, having taken the date of regularisation of the applicant as UDC w.e.f. 26.2.76. The applicant took the matter to court in Suit No.468/84 which was transferred to this Tribunal and was registered as T.A.No.321/86. The Tribunal vide its judgement dated 18.2.92 at Annexure A-1, took note of the revised seniority list of UDCs of 31.5.91 in which the applicant had gained <sup>seniority by</sup> reassignment of ranking by the said seniority list. The issue of seniority in the cadre of UDC was settled and a direction was made to the respondents to grant consequential benefits to the applicant on the basis of revised seniority accorded to the applicant in the seniority list of UDCs dated 31.5.91. The respondents granted various consequential benefits to the applicant and he was deemed to have been promoted as Head Clerk w.e.f. 11.1.83 and as Income-Tax Inspector w.e.f. 8.6.89. The applicant is aggrieved that instead of ten chances, he was allowed only seven chances to appear in the Income-Tax Officers Examination (in short 'ITO Examination') for promotion to the post of Income-Tax Officer starting with 1991 examination. It is alleged that he appeared in the

lb

4

examination for the 7th time during 1999 since 1991. Thus applicant availed of the 8th chance by appearing in the examination held in 1999. However, the result of 1999 examination was withheld for unknown reasons.

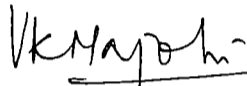
2. The learned counsel of the applicant has referred to Annexure A-6 dated 31.1.2001 whereby Deputy Commissioner of Income-Tax (Hrs. Personnel), New Delhi has forwarded applicant's application for appearing in the examination to be held in 2001 in pursuance of directions of C.A.T. Vide Annexure A-10 dated 9.7.2001, applicant's representation relating to withholding of his result in ITO departmental examination held in 1999 has been asked for by the Deputy Director of Income-Tax (Exam.) from the Commissioner of Income-Tax. Although from 1991 till 1999, ITOs departmental examination was held nine times, the applicant availed himself of eight chances, which means he deliberately did not appear for the ninth chance which would have been available to him during these years. This means that if the applicant had not crossed 55 years of age, he would have been allowed to appear once more in the examination. However since the result of 1999 examination was withheld, he could not avail himself of an opportunity for appearing in the examination. The applicant is stated to have made representation seeking declaration of his result of the examination held in 1999. Vide Annexure A-3 dated 28.1.2000, his representation was forwarded to the Director of Income-Tax (Examination). He made another representation seeking declaration of his result for examination held in 1999 on 7.8.2000(Annexure A-4). His application for appearing in the ITO examination being held

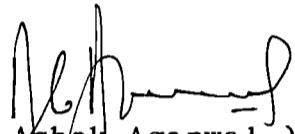


5

in 2001, was forwarded on 31.1.2001 by the Deputy Commissioner of Income-Tax (Hqrs. Personnel) to the Director of Income-Tax (Examination) vide Annexure A-6.

3. In the facts and circumstances of the case, we find that ends of justice would be adequately met if the respondents decide upon the representations of the applicant mentioned above and also about his candidature for appearing in the examination to be held in the year 2001 sufficiently in advance of holding the ITO examination in 2001. We direct accordingly. This OA is disposed of in the above terms.

  
( V.K. Majotra )  
Member(A)

  
( Ashok Agarwal )  
Chairman

/dkm/