

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1227/98

10

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 26th day of September, 2000

Krishan Kumar (K.K.) Gaur
s/o Shri Girwar Singh
r/o RZ, 1 K, New Roshanpura Extension
Nazafgarh
New Delhi - 43. ... Applicant

(By Shri A.K.Bhardwaj, Advocate)

Vs.

1. Union of India through
The Secretary
Ministry of Labour
Shram Shakti Bhawan
New Delhi.
2. The Employees Provident Fund Organisation
Head Office
Bhavishya Nidhi Bhavan
14, Bhikaji Cama Place
New Delhi.
through the Central Provident Fund Commissioner.
3. The Regional Provident Fund Commissioner
Employees Provident Fund Commission (Organisation)
(Regional Office, Delhi) 5th to 8th Floor,
60 Skylark Building, Nehru Place
New Delhi - 110 019.
4. The Assistant Provident Fund Commissioners (HQRS)
Employees Provident Fund Organisation
Central Office, 9th Floor
Mayur Bhavan
Connaught Circus
New Delhi. ... Respondents

(By Shri D.K.Srivastava, proxy of Shri V.S.R.Krishna,
Advocate)

O R D E R (Oral)

By Shri Govindan S. Tampi, M(A):

In this application, non-selection of the applicant to the post of Assistant Programmer Gr.II is under challenge.

2. The applicant who has joined in Employees Provident Fund Organisation as LDC on 21.7.1982 became UDC on ad hoc basis on 20.10.1984 and regularised on

- 2 -

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31.7.1989. Since 1987 he has been working in the Computer Section and he was assigned the duty as Data Entry Operator. On 28.1.1992 a number of posts of Data Entry Operator, Supervisor and Programmer have been sanctioned for the regional office. The applicant who was assigned the duties of EDP also applied for grant of pay of that post. However, instead of granting him the pay scale of EDP, ^{Supervisor} he was reverted as UDC on 16.1.1997. Thereafter, he was promoted as EDP Supervisor on ad hoc basis on 29.12.1997. In response to the advertisement dated 18.11.1997, the eligible candidates were called for filling up of the posts of Assistant Programmers in the Head Office and the Regional and Sub regional offices. The applicant has submitted his application for the appointment to the post of Assistant Programmer and was called for the programming test and the interview on 5.3.1998. According to him he performed well in both the test and the interview. However, he found that instead of being offered the post of Assistant Programmer, for which he applied, he was offered the post of Computer Supervisor in the office EPFO, SRO, Meerut. This, he says was totally illegal as there was as many as 63 posts ^{of Asst. Programmers} were available, only 16 posts have been offered. The post of EDP Supervisor, he had been holding for considerable time, though on ad hoc basis. (There were also specific recruitment rules for the post of EDP supervisors). Having been eligible for the post of Assistant Programmer and having performed well in the test, it was not correct on the part of the respondents to offer him the post of EDP Supervisor. The above points were very strongly urged by the

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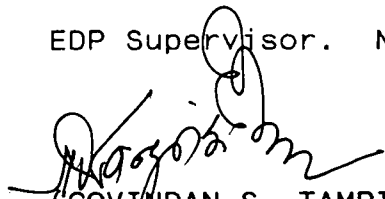
learned counsel for the applicant, Shri A.K. Bhardwaj, who states that the action of the respondents in offering the post of EDP Supervisor which he was already holding and not applied for was incorrect. The impugned offer be quashed and he be given the post of the Assistant Programmer, is his plea.

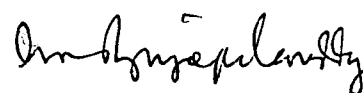
3. The learned proxy counsel for the respondents reiterates the points raised by the respondents in their reply. He states that the selection was held for the post of Assistant Programmers and all eligible persons including the applicant was also called. However, the applicant did not make ^{to} the overall grade in the said ^{test} and therefore he was not selected for the post. Though there were 63 vacancies, only 16 persons were selected. However, he came to be included ^{among} ~~among~~ the 17 persons who were ^{found suitable for} ~~offered~~ the post of EDP Supervisor. He was placed No.9. Hence the offer. The applicant should not have any grievance, according to the respondents.

4. We have carefully considered the rival contentions and perused the relevant records. It is true that the applicant has been working in the Commuter Section since 1987 and he has also been officiating as EDP Supervisor with breaks in between. It is also true that he had applied only for the post of Assistant Programmer for which the advertisement was called. He cleared himself in the written test and thereafter was called for the interview. But the fact is that at the end of the test comprising both the written examination and the interview only 16

persons were found fit by the selection committee for the higher post of Assistant Programmers. This is borne out by the proceedings of the Selection Committee dated 25.6.1998. It is also seen that the Committee had, during the interview, ascertained the willingness of the candidates, including the applicant, for ^{take up} the post of EDP Supervisor, Seventeen of those people who indicated their willingness were considered and selected and offered the post of EDP Supervisor. This included the applicant also. Therefore, it cannot be said that the selection committee adopted a wrong proceedings or that it was expected that they should have filled of all the 63 vacancies even if ^{suitable} candidates were not ^{available} ~~fit~~. No doubt that the applicant was working as EDP Supervisor on and off and he had genuinely expected the higher post but the selection committee having examined him, found that the applicant had not reached the benchmark they had ~~set~~ and accordingly did not select him. The decision of the Committee cannot be questioned. Applicant, in the circumstances, has not made a case for our interference.

5. The application having no merit fails and is accordingly dismissed. However, the order will not come in the way of the applicant's accepting the post of EDP Supervisor. No costs.


 (GOVINDAN S. TAMPI)
 MEMBER(A)


 (V. RAJAGOPALA REDDY)
 VICE CHAIRMAN(J)

/RAO/