

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 696//98

New Delhi, this the 24th day of Nov. 1998.

HON'BLE MR RATAN PRAKASH, MEMBER (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Sh. Raghunath
S/o Sh. Thakur Das
Aged about 44 years
R/o 137, North Avenue
New Delhi - 110 001.

..... Applicant

(By Advocate; Sh. K.K. Patel)

- Vs -

1. Union of India
through Secretary,
Ministry of Home Affairs,
North Block, New Delhi.

2. Central Bureau of Investigation,
through its Director,
C.G.O. Complex,
Block No.3, 4th Floor,
Lodhi Road, New Delhi. Respondents

(By Advocate; Sh. Mohar Singh)

ORDER (Oral)

By Hon'ble Shri Ratan Prakash, Member (J)

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunal Act, 1985 to quash the order dated 11.7.1997; seeking a direction against the respondents to consider his past services for the purpose of seniority and regularisation and to pay him the consequential benefits such as fixation of pay, arrears etc. He has further sought a direction against the respondents to regularise him from the date his colleagues Rajbir Singh and Harish Chandra have been regularised and grant him consequential benefits i.e. regularising him in Group 'C' post of LDC accordingly.

2. Brief facts are that the applicant was initially appointed under respondent No. 2 (Central Bureau of Investigation, CGO Complex, New Delhi) as casual employee w.e.f. 11.10.1984. When his services were terminated it was challenged by him in an earlier OA No. 926/89; Raghu Nath Vs UOI; which was disposed of on 17.9.1991 where upon the applicant was reinstated in service and his services were regularised in the respondents' department w.e.f. 24.4.1992.

3. The grievance of the applicant now is that by the impugned order dated 11.7.1997 he has not been allowed to appear in the departmental examination held for Group 'C' post in the Central Bureau of Investigation on the grounds of non-eligibility. The respondents have opposed this application by counter to which a rejoinder has also been filed. The stand of the respondents is that though the applicant has completed the requisite length of service after being regularised in Group 'D' post; he is not eligible to appear in the departmental examination as he does not fulfill the requisite condition of age; the maximum age for the examination having been kept at 40 years.

4. It has been vehemently argued by the learned Counsel for the applicant that though he has been regularised by the respondent; yet his regularisation vis-a-vis the service particulars of one Sh. Rajbir Singh and Harish Chandra has not been in consonance with the record. It has also been urged that in other departments of the Central Govt. the age prescribed for recruitment of LDCs is upto 50 years. The learned counsel has also drawn our attention to the rules



relating to the Clerks Grade Departmental Examination for Group 'D' staff only, (for the year 1996) issued by the Ministry of Personnel PG and Pension (Annexure -2) wherein the age prescribed is upto 50 years. The learned counsel has also urged that there being the power to relax the Rules by the Government under the Rule -5 of the "Central Bureau of Investigation (Class III Posts) Recruitment Rules, 1969" Rules and the applicant having not completed 50 years of age, he could have been accorded the necessary relaxation in his age and allowed to take up the departmental examination.

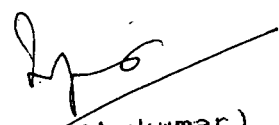
5. We heard the Learned counsel for the parties and have examined the record in great detail.

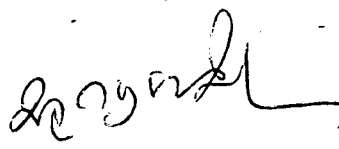
6. The only point for determination in this OA is whether the applicant is eligible to appear in the departmental examination for the post of LDC in the respondent's department?

7. From the pleadings of the parties and the title of the OA, it is apparent that the applicant has indicated his age as 44 years on the date of presentation of the OA in the Registry on 30.3.1998. It has come out during the hearing that the date of birth of the applicant is 10.3.1954, which is also admitted so by the applicant who is present in person in the Court today. Moreover, in the Recruitment Rules as at Annexure R-1 dated 26.6.1969 in the schedule attached with it, the maximum age for promotion in Group D post of LDC in the respondents' department has been kept at 40 years only. In the Notification of the Departmental Examination dated 12.6.1987 (Annexure A-6); under the conditions of

eligibility of Class-IV employees for promotion to LDC post; the age limit prescribed is 40 years as on 1.8.1997. Though, the applicant has completed the requisite 5 years length of service in the department after having been regularised on 24.4.1992 yet, he does not fulfill the mandatory condition pertaining to the age as prescribed in the rules notified under the circulars. He has not challenged the vires of the Rules in question and cannot be permitted to agitate the disparity vis-a-vis Rules applicable in other departments in this OA or take any advantage of those provisions. If he so chooses and advised; he may move independently in this regard. His grievance about not regularising him from a particular date in relation to other two employees; not impleaded herein; is inconsequential; the matter having become final after the decision in his earlier OA No. 926/89 on 17.9.1991.

8. For all the aforesaid reasons we don't find any infirmity or illegality in the order dated 11.7.1997 (Annexure -1) issued by the respondents' department and answer the issue raised herein in the negative. There being no merit and substance in this OA; it stands dismissed with no order as to costs at the stage of admission with the consent of the parties.


(K. Muthukumar)
Member (A)


(Ratan Prakash)
Member (J)

cc.