

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 2423/1989 198  
T.A. No.

DATE OF DECISION 11.12.1989

Shri Inderjeet Sethi Applicant (s)

Shri B.P. Kaul Advocate for the Applicant (s)

Versus

Union of India & Others Respondent (s)

None Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(The Judgment of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice-Chairman(J)).

The applicant who is working as an Assistant in the Ministry of Commerce filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying that respondent No.2 (Ministry of Commerce) be directed to forward his application to respondent No.3 (Union Public Service Commission) to enable him to take the Section Officer Grade Limited Examination, 1989 from 14th December, 1989 and to direct the respondents to issue admission certificate to him for appearing in the said examination. He has also sought for an interim relief to the effect that the respondents be directed to provisionally allow him to appear in the said examination which is scheduled to commence from 14th December, 1989.

*On*

2. The application came <sup>up</sup> for admission on 8.12.1989.

After hearing the learned counsel of the applicant and after perusing the records of the case, we feel that it could be disposed of at the admission stage itself.

3. The facts of the case are that the applicant joined the office of the respondents as a direct recruit Assistant on 26.3.1986. The next higher grade of promotion for him is Section Officers' Grade.

4. The Central Secretariat Service Section Officers' Grade/Stenographers' Grade B(Limited Departmental Competitive Examinations)Regulations, 1964 (hereinafter referred to as the 1964 Regulations) contemplate holding of Limited Departmental Competitive Examination by the Union Public Service Commission in the manner notified by the Department of Personnel & Administrative Reforms, for making additions to the select list for the Section Officers' Grade. Regulation 4 of the 1964 Regulations which deals with the conditions of eligibility for appearing at the examination reads, *inter alia*, as follows:-

"4. Conditions of Eligibility-Any permanent or temporary officer of the Assistants' Grade of the Central Secretariat Service or of Grade C of the Central Secretariat Stenographers' Service who, on the crucial date, satisfies the following conditions, shall be eligible to appear at the examinations:-

(1) Length of Service: He should have rendered not less than five years approved and continuous service in the Assistants Grade of the Central Secretariat Service or in Grade 'C' of the Central Secretariat Stenographers' Service or in both, as the case may be:

Provided that if he had been appointed to the Assistants' Grade of the Central Secretariat Service or Grade C of the Central Secretariat Stenographers' Service on the results of a competitive examination including a Limited Departmental Competitive Examination such an examination should have been held not less than five years before the crucial date and he should have rendered not less than four years approved and continuous service in that Grade:

Provided further that any period of his absence

on Military duties may be allowed to be counted towards the prescribed length of service in any of the above posts.

(2) Age: He should not be more than 50 years of age.

Provided that the upper age limit may be relaxed in respect of such categories of persons as may be notified in this behalf from time to time by the Department of Personnel and A.R. in the Ministry of Home Affairs, to the extent notified in respect of each category."

5. Rule 3 of the impugned Rules for a combined Section Officers'/Stenographers' (Grade B/Grade I) Limited Departmental Competitive Examination to be held by the Union Public Service Commission in 1989, made and notified by the Department of Personnel & Training in substance corresponds to Regulation 4 of the 1964 Regulations, mentioned above.

6. It will be noticed that Rule 3 mentioned above stipulates that a direct recruit Assistant who has 4 years of approved and continuous service and whose examination in pursuance to which he was appointed was held 5 years before 1st July, 1989, is eligible to appear in the examination. Admittedly, the applicant does not fulfil the same as he joined the office of the respondents as Assistant only in August 1986.

7. The grievance of the applicant is that though he submitted to respondent No.2 his application for appearing at the forthcoming examination to be held on 14th December, 1989, the same was not forwarded by respondent No.2 but returned the same to him on the ground that he did not fulfil the eligibility conditions prescribed for the said examination. He submitted a representation to the respondents on 29.8.1989 wherein he alleged that in other Ministries

applications of similarly placed candidates had been forwarded and that the applicant was being discriminated against. A copy of the said representation has not been annexed to the application. However, in the reply of respondent No.2 dated 7th September, 1989 (Vide Annexure-VI, page 23 of the Paper-Book), the respondents stated with reference to his representation dated 29th August, 1989 that "the application of Shri S.S. Prasad was inadvertently forwarded to UPSC. A communication has already been sent to UPSC for withdrawal of the application". Presumably, the respondents withdrew the application of Shri Prasad, who was the similarly placed person mentioned in the representation made by the applicant.

8. The applicant has contended that the refusal of respondent No.2 to forward the application was based on a wrong interpretation of the eligibility criteria prescribed under the rules, that one Shri R.V.S. Mani working as Assistant in the Ministry of Industry since 17.7.86 has been allowed to appear in the examination and that some of his juniors in his own department have been allowed to appear in the examination and this has resulted in discriminatory treatment being meted out to him.

9. The learned counsel of the applicant relied upon the decision of the Supreme Court in H.V. Pardasani etc. Vs. Union of India & Others, 1985(1) SLJ 315(SC) in support of his contention. In our opinion, the said judgment is of no assistance to the case of the applicant.

10. With regard to the juniors of the applicant who are

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said to have been allowed to appear in the examination, the learned counsel of the applicant has drawn our attention to the seniority list of permanent Assistants' in the Ministry of Commerce as on 31st January, 1989 (Vide Annexure-VIII pages 25 to 31 of the Paper-Book), in which the applicant's name figures at S.No.77 while the names of the juniors who have been allowed to appear at the examination figure at S.Nos.84 and 90 respectively. It will, however, be noticed that his junior at S.No.84 was appointed as an Assistant in November, 1980 while his junior at S.No.90 was appointed as an Assistant in January, 1982. These juniors fulfil the eligibility criteria prescribed under the rules for the examination.

11. With regard to the averment that one Shri Mani working in the Ministry of Industry has also been permitted to appear at the examination, the learned counsel has relied upon the office order 344/88 dated 4th October, 1988 from which it appears that his date of appointment is 17.7.1986. There is a reference in the said office order that it has been issued "pending a decision on the writ petition No.565/74 in the High Court of Delhi". The facts and circumstances relating to the eligibility of Shri Mani to appear at the forthcoming examination have not been placed before us, nor is he a party to the proceedings before us. In the circumstances, it cannot be concluded that the respondents are resorting to discriminatory treatment in the matter of fixing the eligibility criteria for allowing the candidates to appear at the examination.

On

12. The conditions of eligibility for appearing at Limited Departmental Competitive Examinations for various services have been prescribed in the Rules in the light of the policy considerations and the exigencies of the service concerned. In the case of 1964 Regulations, the length of service prescribed is 4 years approved and continuous service for the direct recruit Assistants. The age limit prescribed is 50 years of age which is relaxable by the Department of Personnel & Administrative Reforms. No material has been placed before us to indicate that the length of service prescribed by the respondents is not in the larger interest of those working in the Assistants' Grade or that such a provision would lead to stagnation in the service.

13. In the facts and circumstances of the case, the applicant has not established a *prima facie* case for admitting the present application. The applicant has also no case in equity as he is just on the threshold of his career as a direct recruit Assistant. The applicant will be at liberty to appear at the examinations that may be held by the respondents in future by which time he may fulfil the conditions of eligibility prescribed under the Rules.

14. In the result we are of the opinion that there is no merit in the present application and the same is dismissed at the admission stage itself. The parties will bear their own costs.

*D. K. Chakravorty*  
(D. K. CHAKRAVORTY)  
MEMBER (A)

*Burnet*  
11/12/89  
(P. K. KARTHA)  
VICE CHAIRMAN (J)