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Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1548/88

Date: 26/04/1989.

Shri Kali Charan Applicant

Versus

Union of India & Ors. Respondents

For the Applicant Shri R.K. Sheron, Advocate

For the Respondents Shrimati Raj Kumari Chopra,
Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman(Judl.)
Hon'ble Shri M.M. Mathur, 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*

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

The applicant, who is working as a Messenger in the Headquarters, Delhi Area, Delhi Cantonment of the Army Headquarters, filed this application under section 19 of the Administrative Tribunals Act, 1985, praying that a direction should be issued to the respondents to promote him as Daftry w.e.f. 6th October, 1987.

2. The facts of the case in brief are that the applicant was appointed as Messenger on 16th September, 1947 and he was confirmed in that post in 1955. He is illiterate. In September/October, 1987, two vacancies of Daftry arose. A Departmental Promotion Committee was constituted by the respondents for selection of two persons amongst 6 messengers to fill up these vacancies. The Departmental Promotion Committee selected two persons for the vacant posts of Daftry and they were junior to the applicant. While those selected for the

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for the post had 10/11 years of service to their credit, the applicant had put in about 40/41 years of service.

3. The respondents have stated in their counter-affidavit that the applicant did not possess the requisite educational qualifications required for the post. The applicant was informed vide circular dated 18th September, 1987 about the holding of a test in Hindi or English for the purpose of selection to the post of Daftry. The applicant did not, however, attend the test on 21st September, 1987. The fact that he was senior to others, would not be sufficient for the purpose of promotion to the post of Daftry.

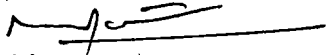
4. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The case had been listed for admission on 21.4.1989. The respondents have relied upon the provisions of CPRD-69/73 according to which, promotion to the post of Daftries from the grade of Peon is to be made on the basis of seniority subject to the rejection of unfit and such of the Peons who do not have the minimum educational qualifications prescribed in the Ministry of Home Affairs' Office Memorandum dated 16th November, 1951, viz., middle school standard, are to be subjected to a test in order to ascertain their suitability for promotion. In the case of Peons who do not possess the minimum educational qualification, the test designed to ascertain their suitability for appointment as Daftry may be held either in English or in Hindi, according to the choice of the candidate.

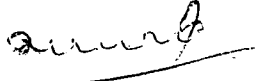
5. In the instant case, the admitted factual position is that the applicant did not possess the requisite educational qualifications. Therefore, the instructions

contained in CPRO-62/73 apply to him. The respondents were well within their rights to subject him to the test. The applicant did not attend the test.

6. In view of the foregoing, we are of the opinion that the applicant is not entitled to the relief sought in the present application merely on the ground that he happens to be the senior-most Peon in the Department. In this case, the respondents have only followed the administrative instructions laid down for the purpose of promotion from the post of Peon to that of Daftry. A provision prescribing the passing of a suitability test for the purpose of promotion cannot be called in question on the ground that it is unreasonable or arbitrary.

7. In the facts and circumstances of the case, we are of the opinion that there is no merit in the present application and the same is dismissed. There will be no order as to costs.


(M.M. Mathur)
Administrative Member


(P.K. Kartha)
Vice-Chairman (Judl.)