

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

248

198 8

DATE OF DECISION 12.2.1988

Shri Hari Shankar Sharma

Applicant
Petitioner

Applicant in person

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondent(s)

None.

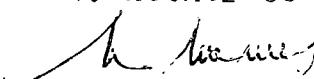
Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

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


(Kaushal Kumar)
Member


(K. Madhava Reddy)
Chairman

12.2.1988

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. OA 248/88

Date of decision: 12.2.1988

Shri Hari Shankar Sharma Applicant

Vs.

Union of India & others Respondents.

Coram: Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member.

For the Applicant Applicant in person.

For the Respondents None.

(Judgement of the Bench delivered by Hon'ble
Mr. Justice K. Madhava Reddy, Chairman)

The applicant ^{who} was appointed as Time Scale
Clerk in the Telegraph Traffic Office in the year 1979
and working as D.T.O Accountant in the office of Superintendent
Incharge, Departmental Telegraph Office, in this application
under Section 19 of the Administrative Tribunals Act, 1985,
seeks a direction that the Respondents do promote him to the
post of Lower Selection Grade Accountant and give him seniority
from the date he passed the Qualifying Examination by relaxing
the Rule as to length of Regular Service.

Under the Rules governing the promotion to the post
of Lower Selection Grade Accountant in Telegraph Traffic Branch,
only a person who has been holding the post of Time Scale Clerk
of Telegraph Office and has put in not less than 10 years/ ^{service} in that
grade and has passed the Departmental Telegraph Office Accountant
Examination is eligible for promotion. The applicant having
been appointed on 1.11.1979 has not completed 10 years of
service by the date that post was sought to be filled in by the
Departmental Promotion Committee which is said to have met in

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January, 1988. That much is conceded by the applicant. What he, however, claims is that in the case of some other Time Scale Clerks similarly placed, as the applicant, 10 years' Service Rule was relaxed and that he should also be granted similar relaxation and considered for promotion.

The post of Lower Selection Grade Accountant in Telegraph Traffic Branch is no doubt a non-selection post and if one is qualified, he has to be promoted on the basis of seniority subject to fitness. Assuming the applicant is the seniormost as claimed by him, when he has not rendered 10 years' service in the grade of Time Scale Clerk, he is not at all eligible to be considered for promotion. It is conceded that in the Time Scale Clerks' Grade there are some juniors to the applicant who have completed 10 years service and have also passed the Departmental Telegraph Office Accountants' Examination. When qualified persons are available for promotion, it will be an arbitrary exercise of power to relax the Rules and promote persons not eligible under the statutory Rules. Any refusal to grant exemption from the Rule of 10 years far from being discriminating, granting any such request would, in the circumstances, be clearly arbitrary and violative of Articles 14 and 16 of the Constitution of India. Hence no relief as prayed for by the applicant can be granted. This application is accordingly dismissed.


(KAUSHAL KUMAR)
MEMBER


(K. MADHAVA REDDY)
CHAIRMAN

12.2.1988