

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

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Date of Decision: 20.10.92.

OA 626/86

SHRI SWAMI NATH ROY

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

THE HON'BLE SHRI RAMPAL SINGH, VICE CHAIRMAN (J).

THE HON'BLE SHRI I.P. GUPTA, MEMBER (A).

For the Applicant

... SHRI B.B. SRIVASTAVA.

For the Respondents

... NONE.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI I.P. GUPTA, MEMBER (A).)

Shri B.B. Srivastava, counsel for the applicant was present and none for the respondents though, Mrs. Raj Kumari Chopra was present on 15.10.92. This is an old case. We cannot wait for the counsel to come and argue the case. It is 3.20 pm. We have therefore on the strength of the counsel of the respondents decided to proceed with the judgement.

In this application, the applicant, who was working as Peon, Official Languages Wing of the Legislative Department of the Ministry of Law, has prayed

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that his promotion from the post of Peon to that of LDC from the Official Language Wing should be directed in accordance with the practice adopted by the respondents in earlier years in respect of Group-D staff of the Official Language Wing on their passes Clerks Grade Examination and the promotion of the application may be effected on the basis of the result of the examination declared in 1985. He has further prayed that consequential benefits should be allowed to accrued to him.

The applicant submitted his application for Clerks Grade Examination meant for Group-D staff and it was duly forwarded to the Staff Selection Commission by the Official Language Wing. The learned counsel for the applicant contends that the applicant appeared in the said examination and in June, 1985 he was declared successful with a high position in the merit list, but, he was not appointed as LDC.

The applicant continued to make representation and he was informed vide letter dated 5.3.86 (Annexure-D) that the Official Language Wing was an office not participating in CSCS and therefore his request for promotion as LDC on the basis of the result of 1984 Examination conducted by the Staff Selection Commission cannot be exceeded to.

*Sub*  
The arguments of the learned counsel for the applicant are :-

...3.

i) In previous years the Group-D staff of the Official Language Wing were allowed to sit for the examination and they were also so promoted in case they succeeded. In para 6.9 of the application we have given the names of five such Group-D staff who had qualified the Examination in 1979 and 1980. The respondents in their counter have admitted that the applications of the said five Group-D staff were forwarded on the ground that the Official Language Wing was part of the Legislative Department and the whole of the Legislative Department was a participating unit. Under some misconception or misunderstanding, the respondents are forwarded in earlier years the applications of Group-D staff and on the qualifying examination, they were appointed as Clerks.

ii) The counsel for the applicant further argued that the applicant in fact worked as LDC from 5.1.87 to 1.8.88 and from 8.1.90 to 8.4.92.

Analysing the facts in this case and on reading of the counter, we find that it is undisputed that five Group-D staff of the Official Language Wing were appointed as Clerks on the basis of the Examination conducted by the Staff Selection Commission. The applicant also appeared yet the SSC after his application was duly forwarded. He qualified in the Examination. The Official Language Wing is not a participating unit and

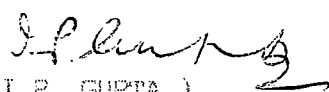
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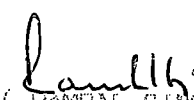
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therefore it was not in order that the applicants' case should have been forwarded to the SSC. If this was the <sup>by</sup> error this should have been corrected in time. Having put the applicant through an examination and having created precedent in the past of having allowed the Group-D staff of the Official Language Wing to sit for the SSC Examination and be appointed consequent thereupon, it does not lie well in the mouth of the respondents to say that the steps in the past or the steps in respect of the applicant were not correct according to rule ~~1~~ because the Official Language Wing was not a participating unit.

In the above view of the matter, we direct that the applicant should be considered for promotion to the post of LDC on the basis of results of SSC declared in June, 1985 and consequently the benefits should be allowed to him. However, we hasten to add that this promotion of the applicant should not affect the promotion of any Group-D staff in the Official Language Wing to the post of LDC on the ground that Official Language Wing is on its own and was not a participating unit. Should the need arise to prevent such an eventuality, the respondents are directed to create such a post for requisite period.

With the above said directions and order, the application is disposed of with no order as to costs.

  
( I.P. GUPTA )  
MEMBER (A)

  
( RAMPAL SINGH )  
VICE-CHAIRMAN (J).