

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 688 1986
T.A. No.

DATE OF DECISION 30.10.86

Shri Gurdev Singh Basran Applicant
Petitioner

Applicant in person

Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri K.C. Mittal 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? Yes

kaushal

(Kaushal Kumar)
Member 30.10.86

Madhava Reddy

(K. Madhava Reddy)
Chairman 30.10.86

CENTRAL

ADMINISTRATIVE
PRINCIPAL BENCH
DELHI.

TRIBUNAL

REGN. NO. OA 688/86

Dated: 30.10.86

Shri Gurdev Singh Basran

.....

Applicant

Vs.

Union of India & Ors.

.....

Respondents

CORAM

Mr. Justice K. Madhava Reddy, Chairman
Mr. Kaushal Kumar, Member

For the Applicant

....

Applicant in person.

For the Respondents

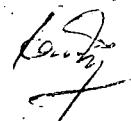
....

Shri K.C. Mittal, counsel.

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

The applicant is a Section Officer of the Central Secretariat Service (C.S.S.) cadre of the Ministry of Home Affairs, appointed to the grade on the 5th March 1982 on the result of the Section Officer/Stenographer (Grade B/Grade I) Limited Departmental Competitive Examination, 1980. The applicant belongs to the category of Scheduled Caste for which certain posts are reserved. The Union Public Service Commission issued a Notice No.25/1/86-E I(B) dated the 26th April 1986 for the Grade I (Under Secretary) Limited Departmental Competitive Examination for Scheduled Caste/Scheduled Tribe candidates, 1986 scheduled to commence on 16th September 1986. This examination was held in accordance with the rules published by the Department of Personnel & Training in the Gazette of India dated 26.4.1986. Rule 3 of the said Rules for Category-III Grade I prescribes as under:-

" 3. Permanent Officers or any officer whose name has been included in the Select List of the grades and services mentioned in Column I below who belongs to Scheduled Castes/Scheduled Tribes and who on 31st December, 1985 satisfy the conditions regarding length of service mentioned in Column 2 shall be eligible to appear at the examination for the category of service mentioned in Column 3. "



For Section Officers' Grade of the Central Secretariat Service, column 2 of the Rules prescribes "not less than 4 years' approved and continuous service in the Section Officers' Grade of the Central Secretariat Service or in Grade 'A' of the Central Secretariat Stenographers' Service or in both, as the case may be. The applicant was appointed to the said grade on 5.3.1982 and thus completed 4 years' approved and continuous service in the Section Officers' Grade of the Central Secretariat Service only on 4.3.1986. The rule, however, requires that the length of 4 years' service as prescribed under Column 2 of Rule 3 should have been completed on or before 31st December, 1985. Though the Petitioner would have completed more than 5 years ~~if~~ the date of the Section Officer/Stenographer (Grade B/Grade I) Departmental Competitive Examination of 1980 in which he appeared and passed the examination, is taken into account, he had not completed 4 years' service from the date of his appointment to that Grade. The applicant points out that under the Rules for a Combined Section Officers/Stenographers (Grade 'B'/Grade I) Limited Departmental Competitive Examination held by the Union Public Service Commission in 1985 a proviso was made as under:-

"Provided that in the case of a candidate who had been appointed to the Grades mentioned in Column 1 above on the results of a Competitive Examination including a Limited Departmental Competitive Examination, such an examination should have been held not less than 5 years before the crucial date and he should have rendered not less than 4 years' approved and continuous service in that grade."

The applicant claims that on the analogy of the Section Officers/Stenographers (Grade 'B'/Grade I) Limited Departmental Competitive Examination, a proviso should have been added in the present Rules also in the following terms:-

"Provided that in the case of candidates who had been appointed to the Grade mentioned in Column 1 above on the result of a Competitive Examination, including a Limited Departmental Competitive Examination, such an examination should have been held not less than 4 years before the crucial date and he should have rendered not less than 3 years' approved and continuous service in the grade."

K. S. J.

2. According to the applicant who argued his case in person with ability and with some conviction that inasmuch as such a proviso has not been made, these Rules are arbitrary and discriminatory and violative of Articles 14 and 16 of the Constitution. He has also submitted written arguments in support of his contention to the same effect. The same read as under:-

" Besides Grade I (Under Secretary) Examination for SC/ST, there are three other Limited Departmental Competitive Examinations held in the Central Secretariat Services, viz., UDC Grade, Grade 'C' Stenographers and SO's Grade. Except Grade I (Under Secretary) Limited Departmental Competitive Examination, in the case of all Limited Departmental Competitive Examinations the delay in the declaration of the results of the examination for the existing grade is covered by way of proviso through which in the case of those appointed to the existing grade on the basis of a competitive examination (including a Limited Departmental Competitive Examination), the 'approved and continuous' service is counted from the date of holding of the examination/ declaration of its results and the prescribed years of effective service are reduced by one year.

But such a provision has not been made in the Grade I (US) Limited Departmental Competitive Examination for SC/ST, 1986. The examination category candidates appearing in various Limited Departmental Competitive Examinations form one class. Thus, the denial of benefit of proviso below Rule (3) of the rules for the Under Secretary Grade Examination for SC/ST, 1986 is sheer discrimination against the SOs, etc. appointed to the grade on the result of the SOs etc. Departmental examination, 1980, in whose case the time gap between the holding of the examination and appointment to the grade was of 14 months.

Another act of discrimination is that the crucial date in the case of SOs grade, etc. Limited Departmental Competitive Examination which used to be 1st day of January of year in which the examination was held has been changed to first of July of the year. As a result, the crucial date for the SOs Grade Examination, 1986 scheduled to be held in December 1986 is 1.7.1986. The SOs grade examination continues to be held in December since long. But on the other side, Gr. I (US) Limited Departmental Competitive Examination for SC/ST which initially used to be held in April, has been shifted to September. But the crucial date which was originally fixed at 31st of December of the year prior to the year in which the examination is held continues to be the same. As a result the crucial date for the US Grade Examination which has been held in September 1986 was 31st December, 1985.

Thus, the SOs etc. appointed to the grade on the basis of the Departmental Examination, 1980 have been made to lose one chance of appearing at the US Grade Examination for SC/ST for no fault on their part."

J. S. D.

3. We are, however, unable to accept his contention. The mere fact that under some other Rules a provision as extracted above has been made, the Rules with which we are presently concerned cannot be termed arbitrary or discriminatory. Different services have different recruitment rules. These Rules cannot be compared with the rules governing the Grade I (US) Ltd. Departmental Competitive Examination for SC/ST of the Central Secretariat Service. So far as these rules are concerned, they apply uniformly to this cadre of service. In the Rules themselves there is no discrimination. The actual grievance of the Applicant seems to be that the result of the Section Officer/Stenographer (Grade 'B'/Grade I) Limited Departmental Competitive Examination, 1980 was published after inordinate delay. So much so, that although the test itself was held in 1980, the applicant and others who had qualified at that examination could be appointed only on 5.3.1982. The result of the Section Officer/Stenographer (Grade 'B'/Grade I) Limited Departmental Competitive Examination, 1981 was, however, declared in October, 1982 and those who had qualified at the said examination were appointed in December, 1982. If only the result were declared in 1981 and they were appointed before 31.12.1981, they would have completed 4 years' service by 31.12.1985. They are now deprived of one valuable chance to appear for the examination. Further, the applicant and his batch-mates who qualified at the 1980 Examination and also those who qualified at the 1981 Examination and who were appointed before 31st December, 1982, become eligible for the Grade I (US) Limited Departmental Competitive Examination for according to the Rules prescribed in Col.2 referred to above, they would also have put in more than 4 years' approved and continuous service in the grade of Section Officer by 31st December, 1986. In other words, for the Grade I Limited Departmental Competitive next Examination, the persons who ~~exclusively~~ qualified at

would also
the subsequent examination of 1981 / become eligible.
But this is due to the result of the 1980 Examination
not being declared expeditiously and not because of any
defect in the Rules itself. The Rules, therefore, cannot
be struck down. So long as the Rules stand, until the
applicant puts in four years' approved service, he would
not be eligible to take the present examination. Even
in the ~~other~~ Rules governing other services with reference
to which he claims that similar Rule should have been
framed for this Service also, 4 years' approved and
continuous service in the grade is prescribed. Of course,
that Rule further prescribes that the examination should
have been held not less than 5 years before the crucial
date, i.e., 1st July, 1985.

None-the-less, under these Rules, the qualifying
service has to be ascertained with reference to 1st July,
1985, and under the impugned rules it has to be satisfied
with reference to 31st December, 1985. Under the impugned
crucial
Rule, this date has been fixed in accordance with the
Central Secretariat Service Grade I (Limited Departmental
Competitive Examination for filling vacancies reserved for
Scheduled Castes and Scheduled Tribes) Regulations, 1979.
These rules are framed in pursuance of sub-rule 2(a) of
Rule 12 and Rule 23 of the Central Secretariat Service
Rules, 1962, and are of general application and govern
all Departmental Competitive Examinations held for filling
vacancies reserved for Scheduled Castes and Scheduled
in Grade I of CSS
Tribes. In the said Regulations 'crucial date' has been
defined under Regulation 2(1)(a) as under:-

"'crucial date' means the thirty-first day
of December of the year preceding the year
in which the examination is held."

Regulation 4 relates to conditions of eligibility and

Kanty

Regulation 4(1) prescribes the length of service as under:-

"Length of Service:- He should have rendered not less than 4 years' approved and continuous service in the Section Officers' Grade of the Central Secretariat Service or in Grade 'A' of the Central Secretariat Stenographers' Service or in both, as the case may be."

This Regulation has been in force since 1979. The impugned notification has been issued strictly in accordance with this regulation. The present Rule 3 issued on 26.4.1986 requires the approved length of service prescribed in Column 2 of the Schedule to the Rules to be determined with reference to this crucial date, that is, 31st December, 1985. As already mentioned, these Rules are of general application to be applied to fill in all such vacancies year after year. The applicant cannot make any grievance in this behalf. These Rules cannot be struck down as they are not arbitrary or discriminatory or violative of Fundamental Rights. It may also be noticed that the applicant cannot appear this year but that is so in the case of others of his batch. If persons who have passed in the subsequent examination also have become eligible, it is not because that the rule is bad but because the results of the examination were ~~not~~ declared earlier in their case. But that cannot be remedied now.

In this view of the matter, this application fails and is accordingly dismissed.



(Kaushal Kumar)
Member
30.10.86



(K. Madhava Reddy)
Chairman
30.10.86