

In the Central Administrative Tribunal

Principal Bench: New Delhi

OA 60/87

Date of decision: 24.07.1992

Shri Atam Prakash

...Applicant

Versus

Union of India & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the Applicant : None

For the Respondents : None

Judgement (Oral)

(delivered by Hon'ble Mr. Justice V.S. Malimath, Chairman)

None appeared either for the applicant or for the respondents. As this is a very old case, we thought it proper to peruse the record and dispose of the case on merits.

2. The prayer of the applicant is for a direction to the respondents to fix his seniority in the lower division grade w.e.f. 10.2.1964 and to grant consequential benefits accruing on this basis. The applicant has not impleaded the other persons as respondents over whom he has claimed seniority. Behind their back no decision can be rendered by the Tribunal, affecting their rights adversely. Hence on this short ground this Application is liable to be dismissed.

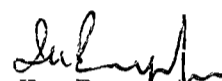
3. Even on merits we find that the applicant was offered the post of Lower Division Clerk in the Armed Forces Headquarters in a temporary capacity by order dated 1.2.64. Specific conditions have been imposed in the order of


appointment stating that his appointment is purely provisional and temporary and will not confer any title to regular temporary or permanent employment. Stipulation No.ii to the said order says that the appointment is being offered on the clear understanding that after appointment he will be required to qualify in the next UPSC Clerks' Grade Examination for regular temporary continuance, failing which his services will be liable to be terminated forthwith. If it is found later on that he is not eligible for appearing in the next Clerks' Grade Examination or does not appear in the Examination or his application is not accepted by the Union Public Service Commission, his services will be liable to be terminated forthwith. It is clear from these stipulations that the applicant was made aware of the temporary nature of the appointment and that in order to get regular appointment he has to qualify himself by taking the next UPSC Clerks' Grade Examination and passing in the same. The applicant took such an examination in the year 1965 and on his being successful in the said examination his seniority has been fixed with effect from 27.6.1966 - the date on which he was appointed as L.D.C. on regular basis. Hence he cannot claim seniority from the date on which temporary or adhoc arrangement was accorded to him in the year 1964. In accordance with the relevant rules he could claim seniority on the basis of the ranking assigned to him in pursuance to the selection made by the UPSC. According of any other date of seniority would tantamount to contravening the statutory provisions.

4. The Application is also barred by limitation for the reason that the applicant did not challenge the conditions imposed in his order of appointment dated 1.2.1964. His representation came to be rejected on 8.7.1982 as per Annexure R-IV, i.e. the date on which the cause of action

accrued in his favour. It is no doubt true that the applicant made a further representation as per Exhibit 'A' dated 15.1.1986, reiterating the very same case, which was rejected in the year 1986. Making repeated representations to the same authority which had decided on merits, does not give him a fresh cause of action. Hence this Application is also liable to be dismissed on the ground of limitation also.

5. For the reasons stated above this Application fails and is dismissed. No costs.


 (I.K. Rasgotra)
 Member(A)


 (V.S. Malimath)
 Chairman

July 24, 1992.

skk