

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

RA-53/90 IN OA-2365/89

DATE OF DECISION 9-6-1990

MANOHAR BHARDWAJ

APPLICANT

VERSUS

UNION OF INDIA OTHERS

RESPONDENTS

SHRI B.B. RAVAL

ADVOCATE FOR THE APPLICANT

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A))

Shri B.B. Raval, Counsel for the applicant has filed a review petition under filing No. 5147 dated 5th June, 1990 praying that :-

- i) OA No. 1142/90 be treated as a review application in OA No. 2365/89;
- ii) a further elucidation may be given to "their Lordship's observation on the subject of giving the applicant reasonable number of chances, to be determined by the respondents to qualify in the

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examination for promotion to Group 'C' post which he was holding, before his reversion;"

iii) the Court fees of OA-1142/90 be refunded, treating the same only as a review application.

On hearing the learned Counsel the prayer made by him was granted in view of the facts of the case.

2. OA-2365/89 was dismissed on 15.5.1990 with the observation "that the applicant should be allowed reasonable number of chances, (to be determined by the respondents) to qualify in the examination for promotion to Group 'C' post which he was holding before his reversion." The facts in the OA-2365/89 briefly were that the applicant has been officiating for about 5 years as adhoc L.D.C. and that he has passed the typing test conducted by the Staff Selection Commission held in February, 1985. Having officiated for long time and having passed the typing test, the applicant considered it his right that he should be regularised as LDC without appearing in any additional examination. The applicant, therefore, did not appear in the qualifying examination which was held for promotion of group 'D' employees to group 'C' posts. The respondents had brought out that according to the Recruitment Rules, besides the typing test, the applicant has also to pass a qualifying examination as prescribed for promotion from group 'D' posts to group 'C' posts.

The respondents, therefore affirmed that they had correctly directed the applicant to appear in the departmental test for

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getting regularised as L.D.C. Aggrieved by this direction of the respondents the applicant agitated the matter in OA-2365/89 filed under Section 19 of the Central Administrative Tribunals Act, 1985.

3. In the RA before us, it has been submitted that the respondents have since issued an order On. 6/13/89-Admn.1 dated 30.5.1990 purporting to revert the applicant from the post of L.D.C. to that of a peon, apparently taking cue from the order of the Tribunal dated 15.5.1990, without giving the applicant reasonable opportunity(ies) to qualify in the departmental test to be held for the purpose.

4. Keeping in view the facts of the case and the decision given in OA-2365/89 dated 15.5.1990, it is clarified that the Tribunal did not find any justification to interfere in the matter as the respondents had rightly directed the applicant to appear in the departmental examination to be held for regularising his service in group 'C' post (L.D.C.) from group 'D' (peon), without resorting to reversion; nor was it the intention of the Tribunal that the applicant should be reverted before giving him reasonable number of opportunities to qualify in the examination, more so, in view of the fact that he was already officiating as L.D.C. for the last five years and was continuing as such. In view of the above, we modify para-6 of our order dated 15.5.1990 to remove any ambiguity, whatsoever.

"In the facts and circumstances of the case, we do not


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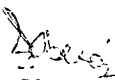
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find any justification to interfere in the matter. The original application is accordingly dismissed with the observation that the applicant should be allowed reasonable number of chances (to be determined by the respondents) to qualify in the examination for promotion to group 'C' post."

A copy of the above order be sent to the learned Counsel for the applicant. A copy of the ~~AA~~ and this order may also be sent to the learned Counsel for the respondents.

RA-53/90 in OA-2365/89 is disposed of as above.


(I.K. Rasgotra)
Member (H)


(T.S. Oberoi)
Member (J)