

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 1347/90  
T.A. No.

199

DATE OF DECISION 8.3.1991.

Shri Raj Pal

~~Petitioner~~ Applicant

Shri Sant Lal

Advocate for the ~~Petitioner~~ Applicant

Versus

Union of India through the

Respondent

~~Secy., Min. of Communications~~

&amp; Ors.

Smt. Raj Kumari Chopra,

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative 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 it needs to be circulated to other Benches of the Tribunal? */no*

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who has worked as a Casual Labourer in the Office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (i) To direct the respondents to hold a review literacy test for him as on 11.1.1987 and if he qualifies, to regularise him from the date his next junior was so regularised; and
- (ii) to grant consequential benefits of pay, allowances, seniority and other service benefits.

2. The facts of the case in brief are as follows. In 1982, the applicant was sponsored by the Employment Exchange for appointment as Casual Labourer in the office of the respondents. He was approved for appointment on temporary and ad hoc basis. He worked in the New Delhi Sorting Division as Mailman in Group 'D' cadre from 24.6.1982 to 17.6.1985. Thereafter, he was transferred to New Delhi G.P.O. on the ground that he was rendered surplus. Later, he worked as a Packer in New Delhi G.P.O. on daily wages since 18.6.1985.

3. The Chief Post Master, New Delhi G.P.O., issued a circular letter under which a literacy test was notified to be held on 11.1.1987 for recruitment to Group 'D' cadre in New Delhi G.P.O. Though the applicant also applied for taking the said test, he was not allowed to take the same. Pursuant to the said test, the respondents appointed 29 persons in Group 'D' cadre. The applicant has alleged that many of them were his juniors as Casual Labourers.

4. The applicant submitted several representations to which he did not receive any reply. The next literacy test was held in July, 1989 for which circular letter was issued by the respondents. The applicant again applied for it and he was allowed to take the test. He appeared in the test held on 23.7.1989, but his result was withheld.

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The respondents declared 10 persons as successful in the test, most of whom were junior to the applicant.

5. The applicant again submitted several representations for declaration of his result, but there was no response from the respondents.

6. The respondents again conducted a literacy test on 22.4.1990. The applicant applied again, but was not allowed to take the test. Four persons were declared successful in the test.

7. The respondents have informed the applicant vide letter dated 16.1.1990 that his age was below 18 years at the time of his initial engagement as daily wage employee. To rectify this discrepancy, his case had been referred to the higher authorities. He was informed that after the receipt of the decision of the higher authority, his result would be declared.

8. The respondents have stated in their counter-affidavit that the applicant has been appointed in Group 'D' cadre w.e.f. 26.7.1990, after completion of pre-appointment formalities, including the condonation of under age and after declaring him successful in the literacy test held on 23.7.1989. He was not allowed to take the test in 1987 on the ground that he was below the prescribed age-limit at that point of time.

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9. We have gone through the records of the case carefully and have considered the rival contentions. The learned counsel for the applicant has relied upon the decision of this Tribunal dated 4.8.1987 in OA-922/86 (Ram Chander Vs. Union of India & Ors.). In that case, which also related to the same respondents, the applicant was under-age by two months and 20 days on the relevant date and, therefore, he was found ineligible by the Selection Board. It was contended that the applicant could not claim relaxation in age as a matter of right although the same was subsequently granted to him. The Tribunal noted that age relaxation in respect of three colleagues of the applicant in that case had been accorded. In view of this, it was observed that the applicant should also have been given a similar treatment.

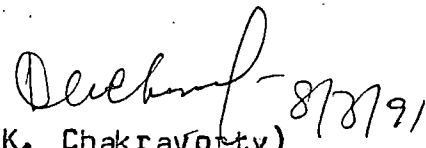
10. The learned counsel for the applicant also relied upon the judgement of this Tribunal dated 1.9.1988 in TA-854/86 (Ram Phool Singh Vs. Union of India) in which the Tribunal has held that a review literacy test for the plaintiff as on 10.10.1981, should be arranged and that if he qualified, he should be regularised from the date his next junior, on the basis of the length of service, was so regularised with all consequential benefits.

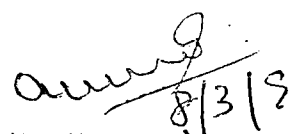
11. Following the decision of this Tribunal in Ram Chander's case and Ram Phool Singh's case, mentioned above,

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we dispose of the present application with the directions to the respondents to regularise the applicant who has already passed the literacy test from the date his next junior, on the basis of the length of service, was so regularised. The applicant would also be entitled to consequential benefits of pay and allowances, seniority and other service benefits. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order.

There will be no order as to costs.

  
(D.K. Chakravorty)  
Administrative Member

  
(P.K. Kartha)  
Vice-Chairman (Judl.)