

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 632/90
T.A. No.

199

(9)

DATE OF DECISION 19.9.1990.

Shri S.B. Mathur	xPetitioner Applicant
Shri S.S. Tewari with Shri B.W. Singhvi	Advocate for the Petitioner(s)
Versus	
Union of India through Secy., Miny. of Industry & Ors.	Respondent
N.S. Mehta	Advocate for the Respondent(s)

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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? *M*
3. Whether their Lordships wish to see the fair copy of the Judgement? */ M*
4. Whether it needs to be circulated to other Benches of the Tribunal? */ M*

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

The applicant, who is a Class I Officer and belongs to the Company Law Service, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that a direction be issued to the respondents to interview him for the purpose of selection as Member, Company Law Board.

2. The facts of the case in brief are as follows. The applicant was selected as Class I Officer, Grade III of the Company Law Service on the recommendation of the U.P.S.C. He was further promoted to Class I, Grade II in 1976 and to Class I, Grade I in 1979. He had gone on

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deputation to the post of Joint Director General in the M.R.T.P. Commission. He has stated that the said post is equivalent to Director in the scale of Rs.4500-5300. The respondents have, however, stated that the pay-scale of the post of Joint Director General is only Rs.4100-5300 and not Rs.4500-5300, as stated in the application. At the time of filing the present application in April, 1990, he was in receipt of pay of Rs.5300. He has put in more than 20 years of service in Class I post under the Government of India.

3. Appointment to the post of Member, Company Law Board, is made in accordance with the provisions of the Company Law Board Members (Qualifications & Experience) Rules, 1989. Rule 3, which deals with the qualifications and age-limit for appointment of Members, provides, inter alia, as follows:-

"(1) A person shall not be qualified for appointment as a Member unless he -

- (i) is, or has been, a member of the Company Law Service and is holding, or has held, a post in super-time grade or selection grade in that service and is eligible to be appointed to a post in the grade of Joint Secretary in the Government of India; or
- (ii) is eligible to be appointed as a Joint Secretary to the Government of India under the Central Staffing Scheme, or to any other post under the Central Government carrying a scale of pay which is not less than that of Joint Secretary to the Govt. of India, and has adequate knowledge of, and experience in dealing with the problems relating to commerce, industry, economics, taxation or law."

4. The applicant has stated that in spite of his fulfilling the requisite qualifications and experience for selection as Member, Company Law Board, he was not called for interview by the respondents. According to him, the respondents called

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for interview persons who are less qualified. He made a representation to the respondents on 2.4.1990 to which he did not receive any reply.

5. The respondents have stated in their counter-affidavit that the applicant did not fulfil the qualifications prescribed for appointment as Member, Company Law Board.

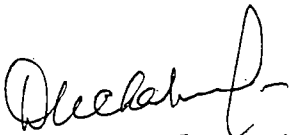
6. We have carefully gone through the records of the case and have heard the rival contentions. Under Rule 3 of the Rules mentioned above, one of the conditions of eligibility is that a person shall not be qualified for appointment as a Member unless ~~he~~ he is or has been a Member of the Company Law Service and is holding, or has held a post in super-time grade, or Selection Grade in that Service and is eligible to be appointed to a post in the grade of Joint Secretary to the Government of India. The applicant was due for promotion to the super-time scale, but was superseded by two other officers. He has, therefore, filed a separate application before this Tribunal in this regard and the same is still pending.


7. Another condition of eligibility under Rule 3 of the above mentioned Rules, is that a person shall not be qualified for appointment as a Member unless he is eligible to be appointed as a Joint Secretary to the Government of India under the Central Staffing Scheme. The respondents have stated that the applicant has not so far been sponsored to the competent authority for determining his eligibility for appointment as Joint Secretary to the Government of India under the Central Staffing Scheme. This has not been controverted by the applicant.

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8. Another condition of eligibility under Rule 3 of the above mentioned Rules is that a person shall not be qualified for appointment as a Member unless he is eligible to be appointed to any other post under the Central Govt. carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India. The applicant has not stated as to how he fulfills this eligibility condition. During the arguments, we were informed by the learned counsel for the respondents that the pay-scale of the post of Joint Secretary is 5900-6700. The applicant has not indicated as to what was his substantive scale of pay in Class I, Grade I post held by him in the Company Law Service. To our mind, the mere fact that he was drawing a pay of Rs.5300 while he was on deputation to the M.R.T.P., or that he has held a Group 'A' post in Company Law Service for over 20 years, will not automatically make him eligible for appointment to a post under the Central Government carrying a scale of pay which is not less than that of a Joint Secretary.

9. In view of the above, we are of the opinion that the action of the respondents in not calling the applicant for interview for the post of Member, Company Law Board, cannot be faulted. Accordingly, the application is dismissed. There will be no order as to costs.


(D.K. Chakravorty)
Administrative Member
19/9/1990


19/9/90
(P.K. Kartha)
Vice-Chairman(Judl.)