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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No.1761/91

This the 11th day of February 1997

HON'BLE SHRI S.R. ADIGE, MEMBER (A).

HON'BLE DR.A.VEDAVALLI, MEMBER (J).

Sh.Hoshier Singh Yadav
S/o Sh.Dev Karan
B/o Shri Sant Lal,
Advocate,
C-21 (B) New Multan Nagar
Delhi-110056.

..... Applicant.

(By Advocate Shri Sant Lal)

Versus

1. The Union of India, through the Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi-110001.
2. The Postmaster General, Haryana Circle, Ambala Cantt-133001.
3. The Superintendent, R.M.S. 'D' Division, Asaf Ali Road, New Delhi-110002. Respondents.

(By Advocate Shri M.M.Sudan)

JUDGEMENT

By Hon'ble Shri S.R. Adige Member (A).

1. Applicant claims promotion as Sorting Asstt. under the Incentive Scheme from 1989.
 2. By respondents letter dated 30.5.63(Ann.A-3) an Incentive Scheme was introduced whereby 10% of promotion vacancies were to be filled by permanent/ quasi permanent staff with 6 years aggregate service who had passed matric/equivalent exam after 3 years in the department. This was partially modified by
- A

respondents letter dated 26.9.68 (Annexure R-1) requiring those eligible to have secured atleast 50% aggregate marks in Matric Examination. This condition was however relaxed in case of SC/ST candidates alone vide Respondents letter dated 31.5.72 (Annexure R-2). Subsequently by respondents letter dated 31.3.89 (Annexure A-5), the condition of passing Matric or equivalent examination mentioned in latter dated 30.5.63 was substituted by 10+2 standard or 12th class pass of a recognised University or Board of School Education, all other conditions of the Scheme remaining unchanged.

3. Applicant ^{cleared} ~~claimed~~ the Higher Secondary Exam. (10+2) in 1989 but as he did not obtain the minimum of 50% aggregate marks, respondents have held he was ineligible for promotion that year under the Incentive Scheme. It is not denied that he was promoted as Sorting Assistant thereafter on 4.4.93 upon clearing BA Examination.

4. Shri Sant Lal has argued that as respondents letter dated 31.5.89 had merely substituted 10+2 or 12th class pass for Matric Exam, in the Incentive Scheme announced vide respondents letter dated 30.5.63 ^{as that letter d. 31.3.89} and had further stated that all other conditions of the Scheme remained unchanged, and as the 1963 Scheme did not have an eligibility conditions of securing minimum 50% of aggregate marks, applicant could not have been ~~declared~~ ineligible when he cleared Higher Secondary Examination in 1989, even if he did not secure minimum of 50% aggregate marks.

5. We are unable to agree with this contention. The Incentive Scheme ^{modified} ~~announced~~ vide respondents letter dated 26.9.68 ^{imposed} ~~was~~ a minimum of 50% aggregate marks

in Matric/equivalent Exam^{as} an essential requirement for eligibility. This condition was relaxed in case of SC/ST candidate alone, vide respondents letter dated 31.5.72, which implies that it was applicable for all general category candidates¹, such as the applicant. By letter dated 31.3.89 all that was modified was that 10 + 2 standard or 12th class pass was substituted for Matric/equivalent. The requirement of securing a minimum of 50% aggregate marks continued to be an essential qualification², the only change being that instead of securing those^{minimum aggregate} marks in Matric/equivalent Exam, they now had to be secured in 10 + 2 standard or 12th class pass exam. The ~~rest~~^{words} "all other conditions of the Scheme will remain unchanged"^{in letter dated 31.3.89} have to be understood to mean the scheme as it stood on 31.3.89, at which point of time a minimum of 50% aggregate marks in the School Leaving Exam. was an essential eligibility qualification.

6. The OA therefore warrants no interference. It is dismissed. No costs.

A. Veda Valli
 (DR. A. VEDAVALLI)
 MEMBER (J)

S. R. Adige
 (S. R. ADIGE)
 MEMBER (A)

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