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**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

**Original Application No.2286/2004**

**New Delhi, this the 30<sup>th</sup> day of September, 2004**

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.A. Singh, Member (A)**

Sh. Sompal Singh  
S/o Shri Ilam Chand  
Income Tax Office  
Range-31  
Central Revenue Building  
New Delhi. ... Applicant

**(By Advocate: Sh. Yatendra Sharma)**

**Versus**

1. Union of India  
Through the Secretary  
Ministry of Finance  
North Block  
New Delhi – 110 001.
2. Chief Income Tax Commissioner  
C.R.Building, I.P.Estate  
New Delhi. ... Respondents

**O R D E R (Oral)**

**By Mr. Justice V.S. Aggarwal:**

Applicant joined as Peon in the Income Tax Department on 19.4.1983. He was regularized on 12.6.1987 and confirmed on 24.11.1992. He was promoted on ad hoc basis as Lower Division Clerk on 21.2.1994.

2. By virtue of the present application, the applicant seeks a direction for declaration of his result of the departmental examination and to issue orders to give the benefit of his result.
3. The applicant contends that for purposes of regularization, he was required to possess a pass certificate in the departmental examination. He passed the required examination in 1996. For promotion in the ministerial staff, the employee has to appear and pass four papers in the departmental examination. There was no time limit prescribed for clearance of these papers. The applicant

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appeared for the first time in all the four papers in 1997. He could pass only 1<sup>st</sup> and 2<sup>nd</sup> paper in that year. He again appeared in rest of the two papers in the year 1998 but he could not clear the same. In 1999, he could only clear paper No.4. He took the examination again in the year 2000 for clearing the 3<sup>rd</sup> paper but his result had been withheld.

4. On earlier occasion, he had preferred Original Application No.1115/2004 which was disposed of on 6.5.2004 directing the respondents to consider the claim of the applicant. Vide the order of 23.7.2004, the representation of the applicant has been rejected. It has been pointed that under Rule III of the Departmental Examination for Ministerial Staff, a person has to be a regular Lower Division Clerk. The applicant was only working on ad hoc basis. He was regularized only in the year 2000 and, therefore, his result was withheld.

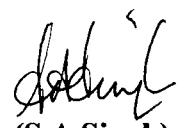
5. During the course of the submissions, learned counsel for the applicant did not dispute that Rule III of the Departmental Examination for Ministerial Staff was applicable to the applicant. It provided that certain persons could appear in the Departmental Examination for Ministerial Staff, <sup>ie</sup> They were directly recruited as Upper Division Clerks, Stenographers, Lower Division Clerks, including Hindi Typist and Data Entry Operators. Admittedly, applicant was only working as Lower Division Clerk on ad hoc basis. Thus, he was not eligible to take the test. If, by mistake, he had been allowed to take the test contrary to the Rules, that will not confer him a right.

6. Learned counsel for the applicant urged that certain other persons had been allowed the said benefit. He pleaded discrimination. Even on this ground, the plea has to be stated to be rejected. Reasons are obvious and not far to fetch. Once there is a Rule, necessarily it has to be followed. Violation of a particular Rule will not confer a right upon the applicant even if similarly situated persons have been accorded the benefit.

7. No other arguments have been advanced.

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8. Resultantly, the OA being without merit must fail and is dismissed in  
limine.

  
(S.A.Singh)  
Member (A)

  
(V.S.Aggarwal)  
Chairman

/NSN/