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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1583 of 1992

Date of Decision 8-8-93

Adesh Kumar Applicant.

Versus

Union of India & others Respondents.

CORAM:

Hon'ble Mr.Justice S.K.Dhaon, Vice Chairman,

Hon'ble Mr.S.R.Adige, Member(A)

For the applicant: Shri B.S.Mainee, Counsel.

For the respondents: Shri A.K.Behra, proxy counsel
for Shri P.H.Ramchandani for
respondents.

JUDGMENT

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

This is an application filed by Shri Adesh Kumar, Senior Engineering Assistant, Doordarshan Relay Kendra, Jind(Haryana) praying for a direction to be issued to the respondents to allow him to appear in the departmental competitive examination scheduled on 2nd & 3rd 1st July, 1992. The authority concerned had passed an order that the applicant could not appear in the said examination as he was not qualified. At that stage, he approached this Tribunal and an interim order was passed permitting him to appear provisionally in the examination, subject to the result to be kept in a sealed cover till this O.A. was disposed of.

2. The rules framed in exercise of the powers conferred by the proviso to Article 309 of the Constitution as notified on 6.12.91 provide:-

* "Senior Engineering Assistant with three years of regular service in the grade....."

3. It is the applicant's own case that he could be admitted to the examination only if he fulfilled the requisite requirements. On 22.9.89, an Office order was passed (Annexure-A5) whereby as many as 37

Engineering Assistants were promoted to the post of Senior Engineering Assistant. The applicant's name appeared at S.No.6. He was promoted and sent from Doordarshan Relay Kendra, Hissar to Doordarshan Kendra Jind. On receipt of order, the applicant filed a petition dated 25.9.89 praying that he may be relieved immediately for joining ^{the} new place of posting (Annexure-II to the rejoinder), but he was relieved only on 9.10.89 (Annexure-III to the rejoinder), as a result of which the applicant could not put in the required period of three years of regular service as Senior Engineering Assistant on 1.10.89, to qualify him for appearing in the said competitive examination.

4. In the present case, we are satisfied that had the applicant been relieved on or immediately after 25.9.89, on which date he filed his petition to relieve him, to enable ~~him~~ to join his new place of posting as Senior Engineering Assistant, he would have joined ~~him~~ ^{been in a position to} at that post on or before 1.10.89, and would have thus put in the required period of three years of regular service as a Senior Engineering Assistant on 1.10.92 to qualify him to appear in the competitive examination, ^{however} because of bureaucratic delay, and not because of any latches on the part of the applicant, ^{himself} that he was relieved only on 9.10.89, with the result that he could not complete the required period of three years of regular service as a Senior Engineering Asstt. on 1.10.92. The applicant should, therefore, not be made to suffer for any action for which he was not responsible.

5. Under the circumstances, this application is allowed, and the respondents are directed to

open the sealed cover in which the results of the applicant's performance in the competitive examination have been ^{preserved}, for further necessary action ^{in accordance} ~~in accordance~~ ⁱⁿ with law & rules on the subject. ~~in~~
No costs.

R. Adige
(S. R. ADIGE)

MEMBER(A)

S. K. Dhaon
(S. K. DHAON)
VICE CHAIRMAN

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