

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...
O.A. No. 1666 of 1992

New Delhi, this 29th day of January, 1999.

(2A)

HON'BLE MR. K. MUTHUKUMAR, MEMBER(A)
HON'BLE MR. T. N. BHAT, MEMBER(J)

B. S. Shakya
S/o Shri Sardar Singh
R/o 1/223, Naurangabad Aligarh (U.P.)
Working as T.O.A. Grade-II (S.S.O.)
New Delhi. ... Applicant

By Advocate: None.

versus

Union of India, through,

1. Secretary,
Department of Telecommunications,
Sanchar Bhawan, Parliament Street,
New Delhi-1.
2. Director General (DE),
Department of Telecom,
Sanchar Bhawan, Parliament Street,
New Delhi-1.
3. D.D.G. (SEA),
Department of Telecom,
Sanchar Bhawan, Parliament Street,
New Delhi-1. ... Respondents

By Advocate: Shri M.K. Gaur, proxy
counsel for Shri R.P. Aggarwal.

O R D E R (Oral)

HON'BLE MR. T. N. BHAT, MEMBER(J)

None is present for the applicant. Shri M.K. Gaur, proxy counsel for Shri R.P. Aggarwal, counsel for the respondents is present. We have heard him, as none had appeared for the applicant even on the previous date of hearing. This being a 1992 matter and having once been dismissed in default and for non-prosecution, we consider it appropriate not to further adjourn it and are, therefore, proceeding to dispose of the OA on merits.

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2. The applicant in this OA assails his non-promotion to the post of Junior Accounts Officer (JAO) in the department although, according to him, he had qualified in all the Papers except Paper-IX of the old syllabus which was on the subject of Advanced Accountancy. The applicant states that he had qualified in the aforesaid Paper earlier and was, therefore, entitled to exemption.

3. We have perused the material on record and we find that the applicant is relying upon the instructions issued by the Director General of Posts, even though the two wings of Telegraph and Posts have been bifurcated in the year 1985. After the bifurcation of the two wings, some instructions were issued by the Department of Posts according to which a person who might have qualified in the Paper of Advanced Accountancy during any year prior to 1988 would not be required to appear in that Paper under the new syllabus. We find no averment in the OA stating that similar instructions have been issued by the Department of Telecommunications after the bifurcations of the two wings. As a matter of fact, it is admitted by the applicant in the OA that no such instructions were issued, which according to him would amount to hostile discrimination against those who continue to work in the Department of Telecommunications. We are not impressed by this contention. Admittedly, no such instructions are

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issued as regards the persons working in the Department of Telecommunications which became an entirely different department after 1985. The persons working in that Department cannot claim promotions on the basis of instructions issued by Department of Posts as separate rules and instructions are required to be issued for them.

4. There also seems to be some confusion in the mind of the applicant on the question as to whether he had at all qualified and was entitled to the exemption according to the instructions of the Department of Posts. It has been rightly contended by the respondents in their counter that in order to be eligible for the exemption, a person should have secured 60% marks or above, while in the present case the applicant had secured only 57 marks out of 200 which on re-totalling came to 61 marks. Thus, the percentage of marks secured by him was a little more than 30% and not 60%.

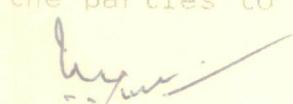
5. The fact, as alleged by the applicant in the O.A., that the Department of Telecommunications did not hold any examination before the year 1986-87, while the Department of Posts did conduct the examinations during these years, would not by itself entitle the applicant to a benefit which is not otherwise admissible to the employees of the Department of Telecommunications though it may be admissible to the Department of Posts. We also do not

Answer

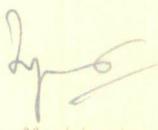
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consider the case of the applicant to be one of denial of avenues of promotion as according to his own admission, avenues of promotion are open to those qualifying the examination. The applicant having failed to qualify cannot seek promotion.

6. For the foregoing reasons, we find no merit in this case and we accordingly dismiss the O.A., leaving the parties to bear their own costs.


(T. N. Bhat)

Member (J)


(K. Muthukumar)

Member (A)

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