

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER/A<sup>8</sup>

O.A. NO. 2497/93

NEW DELHI, THIS 24TH DAY OF APRIL, 1997

SHRI SURINDER SHARMA  
S/o Sh. M.L. Sharma  
R/o 109-B Bonjha  
G.T. Road  
Ghaziabad

..APPLICANT

'By Advocate - Shri D.R. Gupta'

VERSUS

1. Director General of Works  
CPWD, Nirman Bhawan  
NEW DELHI

2. Superintending Engineer  
Delhi Central Circle III  
CPWD, I.P. Bhawan  
New Delhi

..RESPONDENTS

'By Advocate - Shri B. Lall'

ORDER 'ORAL'

The applicant joined service as a Junior Engineer in CPWD and was later promoted as Assistant Engineer in 1972. He became eligible to cross the Efficiency Bar (EB) in 1978. From 1983 onwards till 1987, he was absent from duties and only after he filed an O.A. before this Tribunal, the period of absence from 1983 onwards was regulated as absence on leave of the kind due. One of the requirements for crossing the EB was that the officers should pass the departmental examination in Accounts consisting of three papers. The applicant passed two papers. The applicant thereafter sought exemption

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(9)

from passing the third paper, as provided under rules, which is granted to employees who have attained the age of 50 years and have a good service record. This request was rejected. It is aggrieved by this rejection that the applicant has approached this Tribunal.

2. The respondents in reply state that the case of the applicant for exemption from passing the departmental examination was duly considered but since he did not have a good record of service, the request was turned down.

3. I have heard the counsel on both sides. Shri D.R. Gupta, 1d. counsel for the applicant, submits that the competent authority had to consider the record of service of the officer upto the period when he was due to cross the EB, that is in 1978, and not decide the matter on the basis of his record thereafter. The applicant was absent on medical grounds for reasons beyond his control and the respondents ~~cannot~~ take a decision based on that absence. No adverse entry was ever communicated to him, which indicates that his record of service till 1978 was good. There is also some doubt whether the case was duly considered by <sup>a</sup> ~~the~~ DPC as required under the rules.

4. 1d. counsel for the respondents, Shri B. Lall, <sup>the</sup> has produced <sup>^</sup> note portion of the relevant file which indicates that the case of the applicant was examined and it was submitted to the ADG who recorded that since the service record of the applicant was "average", he should not be allowed exemption from passing the departmental examination. The respondents have also explained ~~the~~ certain cases cited by the applicant in which exemption was allowed even when the employees concerned had not passed even a single paper, stating the reasons which motivated the respondents to give exemption there, and submitted that these considerations do not apply in the case of the applicant.

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5. I have carefully considered the matter having heard the 1d. counsel on both sides and also gone through the pleadings on record. The applicant has no automatic right that he should be granted exemption merely because he has passed ~~the~~ two out of three papers. However, since the rules provide that the competent authority would consider the case on the basis of attaining the age of 50 years and having a good service record, the applicant was entitled to the consideration under the rules for grant of such exemption. The record produced before me does not indicate that such consideration was given to his case. Since it is not clear as to which period the record perused pertained to, whether upto 1978 or thereafter also, ~~since~~ All that is mentioned is that the resume of the last five years ~~be~~ perused. Since the note pertains to 1993, the ACRs could relate to any five years.

6. In the facts and circumstances of the case, I therefore dispose of this O.A. with a direction to the respondents that they will consider anew the request of the applicant for grant of exemption by examining the relevant ACRs upto 1978 through a DPC as per rules. This should be done within a period of three months from the date of receipt of a copy of this order.

No order as to costs.

R. K. Ahuja  
MEMBER 'A'

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