

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
ALLAHABAD

DATED: THIS THE 15TH DAY OF JULY , 1997

CORAM : HON'BLE MR. JUSTICE B.C.SAKSENA VC
HON'BLE MR. S. DAS GUPTA AM
-.-.-.-.-

ORIGINAL APPLICATION NO. 664/96

Radha Raman Yadav s/o Tilak Singh
working as LDC/Hindi Typist in the
office of Deputy Commissioner of Incometax,
Range -II Sanjay Place, Agra resident of
6/C/36 Azad Nagar, Khamdari, Agra. - - - - -Applicant

C/A Sri V. K. Burman

Versus

1. Union of India through Ministry of Finance
New Delhi.
 2. Commissioner of Incometax, Kanpur.
 3. Commissioner of Incometax, Agra- - - - -Opp. Parties
- C/R Sri A. Sthalakar.

ORDER

By Hon'ble Mr. Justice B.C.Saksena VC

Through this O.A. the applicant has sought a direction commanding the Opposite parties to permit him to participate in the examination for the post of U.D.C. 1996. The said examination was likely to commence on 4.7.1996. By an interim order passed on 25.6.1996, the respondents were directed to allow the applicant provisionally at the examination with clear stipulation that the result of the applicant will not be declared.

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Bcl

2. The present O.A. has come up for final hearing. We have gone through the pleadings made in the counter and rejoinder affidavits. The applicant's case is that he was appointed on daily wages as Hindi Typist on 25.2.1983. Thereafter in view of Hon'ble Supreme court's decision in U.P. Income tax department contingency paid staff Welfare Association's case applicant was given minimum of the pay scale. The further case of the applicant is that thereafter O.A. was filed before the Principal bench and subsequently on the decision rendered in the said O.A. applicant was granted salary of Rs.950/- per month as regularly employed staff. Copy of the said order has been filed as Annexure no.3. The applicant's further case is that upto 31.8.1993 only the minimum scale of pay Rs.950/- was paid to him along with D.A. and w.e.f. 1.9.1993 all allowances started to be paid including HRA, CCA and bonus etc. was paid to the applicant.

3. The controversy involved in the present case is ^{as to} ~~that~~ whether or not the applicant was eligible to appear at the selection for the post of U.D.C.. The respondents in their counter affidavit maintained that the applicant was never appointed as L.D.C. The learned counsel for the applicant, however invited our attention to an order 29.12.1994 copy of which is annexed as Annexure 5. This has been issued from the office of the Income tax Commissioner, Agra. It is relevant to quote ^{Para 2 of} the said office order as under :

" ~~In para~~ (2) it was stated that Shri Radha Raman Yadav was appointed as a Typist (LDC) at the minimum of the pay scale of LDC viz Rs.950/- w.e.f. 25.6.1990. He is entitled to bonus at the rate of pay drawn by him and not on the monthly notional pay of Rs.750/- p.m. which is applicable to casual labour. "

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This clearly goes to show that the applicant had been appointed as Typist (LDC) and he ceases to be a casual labour. Averments in support of Annexure no.5 has been made in para 4.6 of the O.A. and in the C.A. it has been stated that the said facts are not disputed. In view of the uncontroverted position, we come to the ^{conclusion} ~~assumption~~ _{for} that the applicant has the status of L.D.C.

4. The applicant's case is that in the Manual of office procedure (Administrative) 1984 and in rule 5.2 Clause 3 it has been provided that L.D.C. including Hindi Typist would be eligible to appear at the examination of U.D.C. For the reasons indicated above, the applicant being LDC as well as Hindi Typist was clearly eligible to appear at the examination of U.D.C.

5. As noted hereinabove, the applicant has appeared provisionally at the examination for the post of U.D.C. By the interim order, his result was barred from being declared. Since now we have held that the applicant was eligible to appear at the examination of U.D.C. promotional examination, we direct that the respondents shall declare the result of the applicant for the post of U.D.C. 1996. ^{If the applicant has qualified} ~~The respondents shall~~ further pass an order for promotion of the applicant in the order of merit i.e. from the date from which person just below in the order of merit to the applicant, has been given promotion, with all consequential benefits and notional fixation of pay will be done from that date on the post of U.D.C.

6. With the above observations, the O.A. is allowed, leaving the parties to bear their own costs.

AM

VC