

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Original Application No. 680 of 1996.

Allahabad this the 13th day of July 2000.

CORAM:

Hon'ble Mr. Rafiq Uddin, J.M.

Hon'ble Mr. M.P. Singh, A.M.

Raj Bali, son of Chandrika Prasad,
resident of Village Alawalpur,
P.O. Sarai Mamrez, District Allahabad
presently posted as Lower Division Clerk,
Indian Institute of Handloom & Technology,
Varanasi.

..... Applicant

(C/A Shri Janardan Sahai).

Versus

1. The Union of India through the Secretary,
Ministry of Textiles, New Delhi.

2. The Zonal Director, Weavers Service Centre,
Baharatnagar Weaver's Colony, Delhi. 52.

3. The Assistant Director (Weaving),
Indian Institute of Handloom & Technology,
Chaukaghata, Varanasi. 2.

..... Respondents

(C/R Shri D.S. Shukla)

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Hon'ble Mr. Rafiq Uddin, J.M.

The applicant seeks quashing of order dated 26.04.1996 passed by the Zonal Director, Weaving Service Centre, Delhi (Respondent No. 2 (contained in Annexure-1 to the U.A.) By the said order, the applicant has been reverted from the post of ad hoc Lower Division Clerk to the post of Daftari in the office of the respondent no 3.

2. The applicant was appointed as peon on 6.1.1971 and promoted as Daftari on 9.7.1979.

3. The applicant was also promoted as Lower Division Clerk in Group 'C' on ad hoc basis vide order dated 24.05.1982.

4. The applicant claims that he is the senior most employee in Group 'D' and these promotions Group 'C' are made Zonewise. The applicant is also senior most qualified peon/Daftari. The applicant has claimed 5% quota to the post of Lower Division Clerk in Group 'C' from the educationally qualified group 'D' employed in terms of circular dated 25.01.1995 issued by the Government of India. Out of 15% of quota of promotion, 10% quota is by way of Departmental Examination and 5% quota is by way of seniority. The examination for filling of examination quota of 10% group 'C' was held in February, 1996. But the applicant failed to qualify in the said examination and as a result by impugned order the

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applicant was reverted on the post of Daftari with effect from 30.4.1996 from the post of Lower Division Clerk.

5. The case of the applicant is that being senior most qualified group 'D' employee, he is entitled to be promoted to the post of Lower Division Clerk against 5% seniority quota which is still unfilled as no promotion to the post of Lower Division Clerk has been made in North Zone seniority. The applicant states that several junior persons have not been reverted including one Balbir Singh on Centre Panipat.

6. We have heard parties counsel and perused the record. It has been argued by the learned counsel for the applicant that the applicant is entitled to the benefit of the O.M dated 25.01.1995 issued by the Ministry of Personnel, Public Grievances and Pension (Department of Personnel, and Training) New Delhi. There is a provision for appointment of educationally qualified Group 'D' employed to the grade of Lower Division Clerk and the seniority quota has been fixed as 5%. The learned counsel for the respondents on the other hand has relied on the provisions contained in the recruitment rules (Annexed as C.A.-1) which provide only 10% quota. It is further stated on behalf of the respondents that they have also followed the circular dated 25.01.1995 and two group 'D' employees have been promoted who qualified the competitive test held

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on 24.02.96. But the applicant was not successful and hence he could not be promoted to post of Lower Division Clerk. However, we find that the respondent has not made any mention of 5% quota exclusively reserved for promotion on the seniority basis. The departmental examination for promotion No doubt is held for 10% promotion quota only.

7. Evidently promotion against is 5% seniority quota is to be made strictly on the basis of seniority. It appears the respondents have not carried out any exercise for promoting qualified group 'D' employees against this quota. Therefore, the claim of the applicant for promotion against 5% seniority quota is correct.

8. Since the applicant was admittedly found unsuitable in the Department Examination held for promotion and he was promoted on the post of Lower Division Clerk on ad hoc basis only, the impugned order is not liable to be quashed. The claim of the applicant for his promotion against 5% seniority quota however, is justified. Accordingly, we dispose of the present O.A. with direction to the respondent no. 2 to consider the case of the applicant and other similarly situated employees for promotion to post of Lower Division Clerk against 5% seniority quota as laid down O.M. dated 25.01.1995. Necessary order will be passed within 4 months from the date of communication of this order.

9. No order as to costs.

W.L.
A.M.

Rafiqul Islam
J.M.