

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A No.1035 of 1986

Arun Kumar Srivastava Plaintiff

Versus

Union of India & Others Defendants.

Hon.G.S.Sharma,J.M.
Hon.K.J.Raman,A.M.

(By Hon.K.J.Raman,A.M.)

This is a suit originally filed in the Court of Munsif, Gorakhpur in November, 1984 and since transferred to this Tribunal under section 29 of the Administrative Tribunals Act XIII of 1985.

2. The ^{ie} plaintiff's case is that he was appointed as a Stenographer by the Deputy Director of Audit in 1982 and thereafter he passed the examination of B.Com.II in June, 1983 and intimated this fact to the officers concerned. On becoming a graduate, he was posted as Auditor and was absorbed as Auditor after passing the Departmental Confirmatory Examination held in 1983. In 1984, 80% of the strength of Auditors was upgraded as Senior Auditor. The plaintiff's contention is that under C & A.G.'s circular dated 28.12.62, (copy of which is not found in the records) his service as stenographer will count in full for the purpose of seniority as Auditor and, accordingly

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he was entitled to be promoted as Senior Auditor with effect from 1.3.84. He states that about 12 of his juniors - not impleaded as defendants in the case - were given the upgraded post of Senior Auditor with effect from 1.3.84 wrongfully ignoring the plaintiff. He avers that his representation dated 28.2.84 in this regard was not agreed to and it was stated that he would get his seniority from the date of his graduation only. It is alleged that a representation dated 15.3.84 to the appellate authority, a copy of which is not among the papers filed, had been withheld. The plaintiff again made a representation for promotion for the time being against a leave vacancy and promotion to the post of Section Officer, but this was not done. It is also contended that the plaintiff was not subject to the stipulation of ^{three} years regular service for promotion as required under C & A.G.'s circular dated 23.7.84. The relief prayed for is for a declaration that the plaintiff is entitled to be treated and paid as Senior Auditor with consequential benefits with effect from 1.3.84.

3. In the written statement, the defendants have averred that under the circular dated 28.12.62 of the C & A.G., the benefit of counting the service in full as Stenographer for the purpose of seniority and confirmation in U.D.L. cadre (now Auditor), will

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3. In the written statement, the defendants have averred that under the circular dated 28.12.62 of the C & A.G., the benefit of counting the service in full as Stenographer for the purpose of seniority and confirmation in U.U.C. cadre (now Auditor), will

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be admissible only to graduate stenographers and not to non-graduate stenographers. As the plaintiff ^{had} informed his passing graduation on 6.7.83, he was ^{was} entitled to count his services as Stenographer only for this date and that having passed the confirmatory examination in November, 1983, he was promoted to the post of Auditor with effect from 4.1.84. It is denied that his juniors were promoted ignoring the plaintiff. It is stated that the plaintiff's letter dated 15.3.84 was not a representation, but it was only a request for personal hearing. It is explained that the D.P.C. held a meeting and considered the case of the plaintiff for promotion as Senior Auditor, but a reference had to be and was made on 20.7.84 for dereservation of a Scheduled Caste vacancy. In the meanwhile the C & A.G's order dated 23.7.84, prescribing 3 years regular service for promotion, was received. ^{Under} this order, the plaintiff was ineligible for promotion. It is also added by the defendants that on 23.8.85 the plaintiff has been promoted as Senior Auditor, as a result of relaxation of the condition of 3 years service.

4. The plaintiff/applicant in the rejoinder filed, has reiterated his contentions as in the plaint and denied the contentions of the defendants, while pressing his claim for promotion with effect from 1.3.84.

5. On the date fixed for final hearing, viz. 5.1.89, ^{learned} counsel for both the sides were present and ^{was}

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the arguments started in the forenoon. When the hearing was resumed in the afternoon session, learned counsel for the plaintiff was neither present nor available, but had left an application for adjournment. Learned counsel for the defendants drew attention to order dated 9.1.87 when it was made clear that no further adjournment shall be allowed. Even after that, the case was adjourned several times on the request of the learned counsel for the applicant. In the circumstances, there was no justification for allowing more time. The plaintiff was however allowed to file a written argument, if he so desired within a week. However, even after the expiry of a longer period, no such argument has been filed by or on behalf of the plaintiff. It appears, in the circumstances, that the plaintiff is not keen to press further arguments and therefore the case is being decided on the basis of the records.

6. As already detailed above, the case of the plaintiff is that for his seniority as Auditor, his service as Stenographer should be counted in full. The case of the defendants is that his service as Stenographer will count for seniority as Auditor only from the date of his graduation. The plaintiff has not specifically questioned the

(G. B. Choudhary)

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^{10R}rationale of the order prescribing this criterion. Even a copy of the circular dated 28.12.62, ^{10R}does not appear to have been filed by the applicant. It appears that graduated ^{10R}stenographers are equated with Auditors as a general rule and possibly graduation is a required qualification for appointment as Auditor. In any case, there seems to be nothing basically unreasonable or arbitrary about the ^{10R}rationale of such a general rule applicable to all including the plaintiff. Therefore on this ground, there is no scope for relief for the plaintiff.

7. It is further noticed that even the condition of ^{three} 7 years qualifying service for promotion as Senior has been relaxed and the plaintiff has been admittedly promoted in 1985. This ought to have considerably lessened the grievance of the plaintiff.

8. Considering all the circumstances and for the reasons stated above, we find no justification for interference in this case, which is accordingly dismissed. There will be no order as to costs.

Lawrence

Member (A)

Lawrence

Member (J)

Dated: the 21st Feb. 1989.

RKM