

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

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Registration T.A.No. 65 of 1987.

Mangal Prasadvs. . . . Union of India and other

Hon'ble Justice Shri S.Zaheer Hasan, Vice Chairman.

Hon'ble Shri Ajay Johri, Member (A).

(Delivered by Hon.S.Zaheer Hasan,V.C.)

Suit No. 288 of 1981, pending in the court of Munsif, Sitapur, has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act,1985.

Applicant's case is that he was appointed as a casual labour on 4.12.1974; that he had completed required number of days to qualify himself for appearing in the test which was held on 11.12.1979; that he was not permitted to appear in the said test; that on 7.3.1979 it was ordered that applicant's case be considered and if he qualified he would be permitted to appear in the supplementary test; that another test was held in 1981 in which he could not appear because he was over age. So he filed this suit for declaration that he should not be treated as over age and after taking his test his seniority should be determined on the

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basis of 1979 test or he should be declared to have been appointed as Mailman with effect from March 1979. The defence is that the applicant could not complete 240 days in each of the preceding two years. So he was not permitted to appear in the test.

The only point at issue before us is as to whether the applicant had completed 240 days as required and was eligible for appearing in the test held in 1979. No other point was pressed before us.

The onus was on the applicant to prove that he had completed 240 days which he had failed to discharge. On the other hand, the defendants have filed detailed statement showing that in 1977 the applicant worked for 115 days and in 1978 the total number of days for which he worked was 183. The respondents have also filed the copy of the advertisement which laid down that a casual labourer in order to qualify for recruitment to the post of Mailman had to complete two years of service as on 1.7.1978 or at least 240 days of service including broken periods. During each of the two years ⁱⁿ were eligible to appear in the test. From the statement filed by the respondents it appeared that the applicant had not completed 240 days as laid down in the aforesaid advertisement dated 17.7.1978. Subsequently the test was held in ^{the year} 1981 in which the applicant

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..... could not appear because was over age.
In this way the applicant was not entitled to
appear in the test held in 1979. So, the applicant's
suit is liable to be dismissed.

This application (Suit No. 288 of 1981)
is dismissed. Parties are directed to bear their
own costs.

[Signature]
May 27, 1987.
R. Pr. VICE CHAIRMAN.

[Signature]
MEMBER(A).