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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

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Registration O.A. No. 692 of 1988.

Shri. K.K.Prasad ... Applicant.

Versus.

Union of India & Others. Respondents.

Hon'ble Ajai Johri, A.M.
Hon'ble G.S.Sharma, J.M.

1. By this application received under section-19 of the Administrative Tribunals Act 1985, the applicant who is working as a Section Officer in the Audit Office of the North Eastern Railway at Varanasi has sought relief that he should be treated as Assistant Audit Officer w.e.f. 1.3.84 with all consequential benefits. He has further prayed that he should be treated as promoted to the post of Assistant Audit Officer in the pay scale of Rs.2000-3200, from 1.7.86 again with all consequential benefits & the order issued by the respondents on 15.4.88 may be quashed.

2. The applicants case is that originally he was working as a Supervisor in the Audit Department w.e.f. 1.7.83. Consequent to restructuring of the cadre in the Audit Department, he was re-designated as a Section Officer w.e.f. 1.3.84 and this re-designation was in terms of Para 3.3.5 of the Manual of Instructions for Restructuring. This adjustment was purely personal to him. The applicant subsequently in December'87 also passed the S.A.S examination. But when the promotions of Section Officers to the Grade to the Assistant Audit Officer were made by the respondents in January'88, the applicant was not considered on the ground that he had not completed three years of service as Section Officer after qualifying in the examination.

3. We have heard the learned counsel for the parties. On behalf of the applicant it was contended by the learned counsel that adjustments against the 20% quota of Section Officers ordered

A3
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by the respondents consequent to the restructuring, without passing the S.A.S examination should infer that a waiver has been given to the applicant for passing the examination under the powers which are available to the respondents for such waiver. It was further contended that the applicant was the senior most Section Officer and by his redesignation as a Section Officer by adjustment on 1.3.84, on the crucial date when the promotions to the post of Assistant Audit Officer were made, he had gained the required experience, and since even the conditions of the passing the examination had been achieved by the applicant, ^{or by} qualifying the S.A.S examination in December '87, his non-consideration for promotion of Assistant Audit Officer was not correct.

4. On behalf of the respondents, the learned counsel Shri. K.C. Sinha submitted that the applicant had not qualified in the S.A.S examination so he was put to work as a Supervisor and he was not made a Section Officer. He was only discharging the duties of Section Officer consequent to the adjustment made on restructuring. According to the learned counsel, a person can become a section officer only, when he has qualified in the examination. The learned counsel further contended that it is only for adjustment of the cadre and in the exigencies of the service that a person is allowed to function as a supervisor and does Audit Work. According to him being in the same Grade does not make a person a Section Officer. So since the applicant had not functioned as a regular section officer, being not qualified in the examination, he has no case.

5. Para-2 98b in the Annexure B-1 says that where qualified S.A.S accountants are not available to hold charge of S.A.S posts,

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the Heads of offices are authorised to promote U.D.C.s to hold the S.A.S post purely as a temporary measure and such persons will be allowed to draw the pay in S.A.S Grade was so long as they hold supervisory charge and will be redesignated as 'Supervisor'.

6. At Annexure R-3 is extract of the Manual of Instructions regarding the Re-structuring. On page-54 of these instructions which has been extracted in Annexure R-3, in para-9 it has been said that Auditors who are working as supervisors will not be considered for placement in the Higher Grade of Rs.650-1040. It can thus not be disputed that any unqualified person who is working as Section Officer will not be eligible for promotion to the grade of Rs.650-1040. The Assistant Audit Officer is in the Grade of Rs.650-1040.

7. We have considered the submissions made before us as well as the relevant instructions issued by the department and we have also seen that the applicant had qualified in the S.A.S examination in December '87. The only point under dispute is whether the applicant should be considered to have gained experience of three years working by virtue for having been put by adjustment on the post of Section Officer consequent to re-structuring of the cadre w.e.f. 1.3.84. It has been admitted by the respondents that the applicant was discharging the duties of Section Officer. This would mean that the applicant was ^{3/} ~~for~~ ^{3/} all purposes ~~was~~ doing the job of the Section Officer. He was however not considered suitable for promotion because it was said that he had not gained the required experience on the post of Section Officer. We ~~do~~ ^{not} agree to the submission made that for promotion a person can only be considered after he is considered regularly promoted on achieving ^{3/} ~~the applicant working as Section Officer on re-structuring has no meaning~~ qualification of S.A.S required for the post. The learned counsel for the respondents had emphasised on the fact that the applicant was never posted as section officer and his posting can only be considered in a regular manner from the date he qualified in the examination. We

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are not impressed by this submission. On the crucial date when the applicant was due for consideration he had passed the examination as well as he had gained the experience of ~~three~~ years as Section Officer. ^{31/12/88} These were the requirements for being considered for the post of Assistant Audit Officer. We therefore feel that the applicant should have been considered for promotion as Assistant Audit Officer as he had the requisite experience and had qualified in the examination.

8. We therefore direct that the respondents will re-examine the case of the applicant afresh. If he is found otherwise suitable he will be considered for promotion to the post of Assistant Audit Officer ^{as since} ~~from the date~~, he had qualified in the S.A.S examination, according to his turn and seniority.

Subarne
Member (J)

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Member (A)

Dated: 16th February, 1989.

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