

Court No.2

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.902 of 1988

Girish Prasad .... Applicant

Versus

Union of India & Others ..... Respondents

Hon. Mr. D.K. Agrawal, J.M.

Hon. Mr. K. Obayya, Member (A)

(By Hon. Mr. D.K. Agrawal, J.M.)

The applicant holding the substantive appointment of a peon since 22.9.66 in the Regional Office of Directorate of Field Publicity situated at Lucknow was given adhoc appointment on the post of Lower Division Clerk with effect from 17.12.81 and reverted to the substantive post of the peon vide order dated 15/19.7.88. The present petition is directed against the order of reversion.

2. This case has been debated at Bar on number of hearings. The Rules of Promotion from class IV to class III category earlier provided for 10% promotion by means of Limited Departmental Examination. The applicant appeared at the departmental test held in the year 1978 and failed. The rules were later on amended in the year 1988 which bifurcated the 10% quota into two parts, 5% promotion by Limited Departmental Examination and 5% on the basis of seniority of persons who had put in five years of service and educated upto class X.

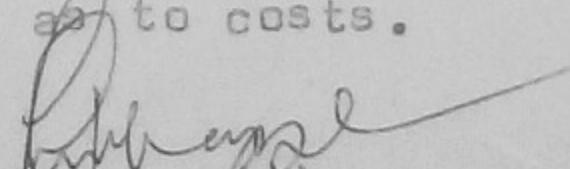
2. It is not disputed that the applicant is not qualified to be promoted with regard to his seniority in the 5% quota to be filled up in order of seniority.

*D.K. Agrawal*

Therefore, the claim of the applicant for absorption in class III is limited to the Departmental Examination. It is not disputed that no departmental examination has been held after the year 1978. The opposite parties have taken a plea in clear terms that they held a Limited Departmental Examination in the year 1978 and the applicant failed. The applicant's contention is that the examination held in the year 1978 was not a departmental examination but it was an examination open to all the candidates. However, we do not find any pleadings to the effect challenging the examination of the year 1978. Possibly, it could not be done either. The reason is that the applicant was not aggrieved till he was reverted back vide orders dated 15/19.7.88. It would mean that the applicant not only participated in the examination held in the year 1978 but also submitted to the result thereof having not agitated the matter either in the present claim petition or earlier to it.

3. Thus from the facts on record it emerges out that the applicant is not eligible to be promoted on the basis of his seniority nor he <sup>~ has ~</sup> ~~is~~ yet qualified in the Limited Departmental Examination. We have also satisfied ourselves to the effect that none of his juniors has been made to work on adhoc basis in class III category. Therefore, there is no merit in this claim petition.

4. In the result, the claim petition is dismissed without any order as to costs.

  
Member (A)

  
Member (B)

Dated the 25th October, 1991.

RKM