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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6TH DAY OF SEPTEMBER, 2000

Original Application no.676 of 1994

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.M.P.SINGH, MEMBER(A)

Lal Babu, Son of Sri Paras Nath,  
R/029/63, Lukerganj, district Allahabad, working  
as Canteen Clerk, Department of Canteen  
A.G(A&E) U.P. at ALLAHABAD.

... Applicant

(By Adv: Shri B.Tewari)

Versus

1. The Chairman Canteen, A.G.Office  
U.P. at Allahabad.
2. The Section Officer, Administration,  
A.G.Office, Accounts Department 1st  
U.P. at Allahabad.
3. Union of India through the Secretary  
Ministry of Finance Govt. of India  
New Delhi.

... Respondents

(By Adv: Shri Satish Chaturvedi)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

By this application u/s 19 of the A.T.Act,1985 applicant has prayed for a direction to the respondents to pay the difference of salary w.e.f. 1.8.1985 to 31.12.1985 in the scales of Rs.196-232/- to Rs225-308/- and since 1.19.1986 to the present date in the scales of Rs.750-940 to 825-1200/-. The applicant has also prayed for directing respondents to pay 15% interest on account of delay in payment.

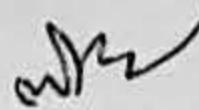
The basis of the aforesaid claim is that the applicant was serving as Bearer in Departmental Canteen of Accountant General's office, U.P. Allahabad. He was appointed as Counter Clerk under appointment order dated 22.7.1985. It is claimed that he joined as Counter Clerk on 1.8.1985.

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In counter affidavit paragraphs 11,13 and 14 it has been admitted that applicant though could not be appointed on the basis of the appointment letter dated 22.7.1985, in view of the ~~ban~~ imposed by the Government, but he continued to discharge the duties of Counter Clerk from 1.8.1985 and throughout continued. In para 22 of the counter affidavit it has been stated that as per schedule 'B' read with Rule 5(2) of the Departmental Canteen Employees(Recruitment Condition of Service)Rules,1980 minimum qualification for the post of Canteen Clerk is Matriculation. Since the applicant does not possess the requisite educational qualification he was not eligible for the appointment on the post of Counter Clerk. Considering the facts and circumstances of the case since the applicant does not possess the requisite educational qualification, his claim for appointment cannot be accepted. However, in view of the admitted position that he continued to discharge the functions of Counter Clerk right from 1.8.1985,in our opinion he is entitled for the limited relief for payment of difference of pay scale.

The application is accordingly disposed of finally with the direction to the respondents to pay the difference of salary for the period applicant has worked as Counter Clerk. The payment in pursuance of this order shall be ~~made~~ paid within six months from the date a copy of this order is served on the Competent Authority. No order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 6.9.2000

Uv/