

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

*NO  
To give  
appointment  
in class III*

O.A. No. 99 OF 1990  
Case No.

DATE OF DECISION 23.02.1993.

Shri J. Manoharan

Petitioner

Shri C.T. Maniar

Advocate for the Petitioner(s)

Versus

Union of India and Others

Respondent

Shri Akil Kureshi

Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. R.C. Bhatt : Member (J)

The Hon'ble Mr. V. Radhakrishnan : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

J. Manoharan,  
Farm Hand (SC 1681),  
Military Farm,  
Ahmedabad - 3.

...Applicant.

(Advocate : Shri C.T. Maniar)

Versus

1. The Union of India,  
Notice to be served  
through Deputy Director General  
Military Farms  
Army Head Quarters  
Quarter Master General Branch  
Defence Head Quarters - P.O.  
NEW DELHI - 11.
2. The Deputy Director of  
Military Farms,  
Head Quarters, Southern Command  
Kirkee, Pune.
3. Mr. M. S. Malik,  
Manager or his successor in  
the Office,  
Officer-in-charge,  
Military Farm,  
AHMEDABAD - 3.

...Respondents.

(Advocate : Shri Akil Kureshi)

ORAL JUDGMENT  
O.A.NO. 99 OF 1990

Dated : 23rd Feb. 1993.

Per : Hon'ble Mr. R. C. Bhatt : Member (J)

This application under Section 19 of the Administrative Tribunals Act, is filed by the applicant a Farm Hand at Military Farm, Ahmedabad, against the respondents seeking the relief that the respondents be directed to act according to law by promoting the applicant in Class-III cadre. The case of the applicant as pleaded in the application is that he had been appointed as Farm Hand at Military Farm, Ahmedabad, with effect from 28.2.1980, but he has been working as the clerk and doing the table work and

also typing work since his date of appointment. The applicant in support of this allegation has produced the documents Annexure-A and A/1, dated 27th Jan.1988 and 20th July, 1984. The first document Annexure-A though <sup>the m</sup> does not show his name in ~~that~~ letter written to the DDMF, HQ, Southern Command, Kirkee/Pune-3, by the Officer Incharge of the Minilary Farm, Ahmedabad, <sup>m</sup> The applicant has alleged that the reference ~~xx~~ in para-2 of that letter as to "One Farm Hand" is about the applicant whose date of appointment is 28.2.1980. The applicant has alleged that the certificate Annexure-A/1, dated 20th July, 1984, from the Manager, Officer Incharge, shows that the applicant has been attending correspondence work/etc., <sup>typing</sup> with effect from 28th Feb.1980 and also was working on temporary basis with effect from 28th Aut~~g~~ust 1978 to 27th Feb.1980. The applicant has therefore, alleged that as the work of clerk was taken from him atleast since 28th Feb.1980, the respondents should have considered him for promotion from Class-IV cadre to Class-III cadre. It is the case of the applicant that he is working in Class-IV cadre but on completion of five years of service and on passing the test, <sup>he m</sup> he is eligible to be promoted as Lower Division Clerk in Class-III and the respondents ought to have promoted him in Class-III cadre.

2. The respondents have contended that the applicant was appointed as a Farm Hand with effect from 28th Feb. 1980, as Group-D employee. It is contended that there is no record available in the Office to show that the applicant

had been allotted the duty of clerk. The respondents have denied that the applicant has been discharging his duties honestly as alleged. According to the respondents, the applicant might have working as a helping ~~to~~ to the clerk as given in the case, but he was never assigned as a clerk.

The respondents have further contended that the applicant has misbehaved with some officers also. It is contended that there is no promotion from the post of Farm Hand to clerk as per the Department Rules. It is contended that the applicant had also applied for the post of Lower Division Clerk vide the application dated 12th April, 1982, but the request was not entertained directly from the individual, and he was asked to apply for the post of L.D.C. as and when ~~xxxx~~ vacancy arises in the Minitary-Farms and that his name would be considered along with others. The applicant had submitted an application dated 27.8.1982, for the post of L.D.C. and he was replied that he should get his name registered with the local employment exchange as and when the vacancy occurs in the department. It is contended that the applicant has not put up any application to the Officer in charge for promotion in the post of Clerk in the last week of Jan. 1990.

4. The applicant has filed rejoinder controverting the contentions taken by the respondents taken in their reply.

5. We have heard the learned advocates for both the parties. We have also perused the pleadings and documents on record. The case of the applicant is that as he was worked

as a Typist and the duty was allotted to him that of clerk  
~~hence~~  
since 28.2.1980, he should have been considered for promotion to Class-III, cadre by respondents after having completed five years of service, provided he passes the requisite test. The learned advocate for the applicant submitted that the two documents Annexure-A and A/1, *prima facie* support the case of the applicant. The learned advocate for the respondents submitted that as per the ~~existing~~ departmental rules a candidate ~~should have~~ completed five years of service in the lower grade can apply for higher grade in the departmental examination, ~~but~~ one cannot by way of right is entitled to post Grade-III. It is further contended that there is ban on recruitment.

6. The respondents should consider whether according to the departmental rules the applicant is eligible for promotion to Grade-III. There cannot be any ban so far as promotion is concerned. The respondents ~~may~~ with whatever record they have should, according to the departmental rules, consider whether the applicant is eligible to the promotion to Class-III post, and if he is ~~eligible~~ the respondents would be entitled to ask the applicant to pass the eligibility test as per the rules. In our opinion, this application can be disposed of by giving the suitable directions to the respondents ~~which~~ do as under :

ORDER

- (1) The application is partly allowed.

The respondents are directed to consider as to whether the applicant who has been working in Group-D post as Farm Hand, at Military Farm is eligible for promotion to Class-III, Cadre as he has been working as Farm Hand since 28th Feb.1980.

- (2) The respondents may take into consideration the documents Annexure-A and A/1, also for considering the eligibility of promotion of the applicant.

- (3) If according to the departmental rules of the respondents, the applicant is eligible for promotion the respondents to consider him for promotion and they ~~may~~ ask the applicant to pass the departmental test for the promotion.

- (4) If the applicant found eligible for promotion according to the departmental rules and if ~~passes~~ <sup>is</sup> he ~~succes~~ in the test to be taken by the department the respondents may further consider him for the promotion, taking into consideration his services from 28th Feb. 1980 and may also examine the two documents Annexure-A and A/1, also.

(5) The respondents to comply with the above direction and to pass the speaking order on the question of promotion of the applicant and to inform him within four months from the date of receipt of this order. The application is disposed of, accordingly. No order as to costs.

*MR*  
( V.Radhakrishnan )  
Member (A)  
23.02.1993.

*R.Bhatt*  
( R.C.Bhatt )  
Member (J)  
23.02.1993.

AIT