

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.769 of 1996

Present : Hon'ble Dr.B.C.Sarma, Administrative Member.
Hon'ble Mr.P.Dutta, Judicial Member.

DIPAK KUMAR MITRA

Vs.

UNION OF INDIA & ORS.

For the applicant : Mr.P.K.Dutta, counsel.
Mr.N.C.Chatterjee, counsel.

For the respondents: Mr.S.Som, counsel.

Heard on : 27.6.1996

Judgment on : 27.6.1996

Unlisted

J U D G M E N T

B.C.Sarma, A.M.

1. This application has been moved as an unlisted matter in view of its urgency.

2. The applicant is aggrieved by the fact that the respondents have not permitted him to sit in the Limited Departmental Competitive Examination for the post of Upper Division Clerk to be held on 30th June, 1996.

3. The applicant contends that initially he was a Group-D staff working under the respondents and then he was given promotion to the Group-C in 1984. But he was kept ad-hoc and ultimately on 29.3.1995, he was made a regular Lower Division Clerk. The applicant also contends that the respondents have turned down his case on the ground that the applicant did not



put in three years of regular service as per the notice dated 10.4.1996, as set out in annexure 'B' to the application. It is also the specific case of the applicant that he was earlier allowed to sit in such test held in 1991, but this time he has been denied of this opportunity. Being aggrieved thereby, the instant application has been filed with a prayer that a direction be issued upon the respondents to allow the applicant to appear in the test to be held on 30.6.1996, after quashing the impugned memorandum dated 14.6.1996.

4. Mr.S.Som, ld.counsel, appears for the E.S.I. Corporation and strongly opposes the application. He submits that the applicant was made regular in the cadre of Lower Division Clerk only in March, 1995, and, therefore, he has not fulfilled the basic condition of putting in three years of regular service for sitting in the Limited Departmental Competitive Examination. Mr.Som further submits that the entire matter has been clarified in the memorandum dated 14.6.1996, after the applicant had filed a representation against his rejection on his earlier application in allowing him to sit in the examination. Mr.Som submits ~~that it is true~~ that earlier the applicant was allowed to sit in such examination, but that was a mistake and the applicant cannot now be allowed to sit.

5. At the time of hearing of the application, the ld.counsel for the applicant also prayed for an interim order restraining the respondents from publishing the result of this test after allowing the applicant to sit in the examination.

6. We have examined the matter after hearing the submissions of both the ld.counsel and perusing the records before us particularly the notice which was issued on 10th April, 1996.



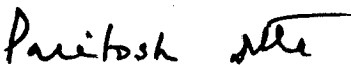
One of the essential conditions to be fulfilled for the purpose runs as follows :-


"Only those employees who have completed minimum 3 (three) years continuous regular service (Permanent, Temporary, Officiating) without break in the grade of L.D.C./Adrema Operator/Telex Operator/Hindi Typist/Telephone Operator/Computer etc. as on 30.4.1996, are eligible to apply for the post."

As per own admission of the applicant, it is evident from his application dated 4.6.1996, that the applicant was an ad-hoc appointee from 1984 and his services were regularised as an LDC only w.e.f. 29.3.1995. We also find ^{that} the applicant's continuance on ad-hoc basis against excess accommodation till his absorption has been well explained in the memorandum dated 14.6.1996, as set out in annexure 'E' to the application. Clearly, therefore, the applicant has not put in the stipulated required period of three years of service as Lower Division Clerk as a regular appointee and we have no hesitation at all to hold that the applicant is not at all eligible to sit in the Limited Departmental Competitive Examination for the post of UDC.

7. For the reasons stated above, we find no merit in this application. It is, therefore, dismissed at the stage of admission itself.

8. No order is passed as to costs.


(P. Dutta)
Judicial Member


(B.C. Sarma)
Administrative Member