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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
JODHPUR.

O.A. No.340/97

Date of Order:13.11.1998

Jagdish Chandra Joshi s/o Shri Shiv Dutt Joshi, working as a Peon in the office of Central Ground Water Board, Jodhpur, r/o Plot No.69, Shiv Puri, Mahamandir, Jodhpur.

... Applicant

VERSUS

1. Union of India through Secretary , Ministry of Water Resources, New Delhi.
2. Administrative Officer, Ministry of Resources Headquarters Office, Central Ground Water Board, N.H. IV, Faridabad, Harayana.
3. Executive Engineer, Central Ground Water Board, Division XI, 22(2) Heavy Industrial Area, Near Jodhpur Dairy, Jodhpur.

... Respondents

PRESENT:

Mr. Y.K. Sharma, Counsel for the applicant.

Mr. K.S. Nahar, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

Applicant, Jagdish Chandra Joshi, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to fill

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up the vacant post of LDC under departmental examination quota from amongst the selection panel dated 6.5.1992 (Annx.A/4) with all consequential benefits and further that the impugned recruitment rules notified vide the respondents Notification dated 22.1.1997 (Annx. A/1) may be kept in abeyance till the said selection panel is exhausted.

2. Applicant's case is that in terms of the respondents letter dated 11.3.1992 (Annx. A/3), the applicant had appeared in the departmental examination for the post of LDC held on 29.3.1992 and he was declared successful in the said examination vide the respondents letter dated 6.5.1992 (Annx.A/4). The name of the applicant appears at Sl.No.13 of the panel dated 6.5.1992. The applicant has been requesting the respondents to appoint him on the post of LDC on the basis of this panel. However, because of non-availability of vacancy under departmental examination quota, the applicant could not be appointed on the said post. In the meantime the respondents have notified fresh amendment vide Notification dated 22.1.1997 (Annx. A/1) for recruitment to the post of LDC which, inter alia, provide that the selection panel would becoming infructuous after 3 years of its existence. The contention of the applicant is that he had appeared in the said departmental examination on the basis of earlier recruitment rules and had qualified the same. Notification dated 22.1.1997 cannot, therefore, be made applicable to his case.

3. Notices were issued to the respondents and they have filed their reply.

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4. We have heard the learned counsel for the parties and perused the records of the case.

5. The respondents while contesting the application have stated that in view of Notification dated 22.1.1997, the selection panel dated 6.5.1992 has elapsed and, therefore, the applicant cannot be offered appointment on the post of LDC.

6. The Central Ground Water Board's (Group C & D posts) Recruitment Rules, 1971 as modified vide Notification dated 4.12.1990 provide as under:

"(ii) 5% of vacancies shall be filled up from amongst the Group 'D' staff who possess matriculation or equivalent qualifications and have rendered five years regular service in Group 'D' on the basis of a Competitive Examination. The maximum age limit for eligibility for examination is 45 years (50 years of age for the SC/ST candidates).

Note-(a) Unfilled vacancies pertaining to a particular year shall not be carried over.

Note-(b) If more of such employees than the number of vacancies available under clause (ii) qualify at the said examination such excess number of employees shall be considered for filling up the vacancies arising in the subsequent years so that the employees qualifying at an earlier examination are considered before those who qualify at the later examination."

7. This provision has been modified vide Notification dated 22.1.1997 as under:

"(ii) 10% of the vacancies shall be filled up from amongst the Group 'D' Staff of Central Ground Water Board who possess matriculation or equivalent qualifications and have rendered five years regular service in the Group 'D' on the basis of departmental competitive examination through Staff Selection Commission. The maximum age limit for eligibility for the examination is 45 years (50 years of age for Scheduled Caste/Scheduled Tribe candidates).

(iii) 5% of the vacancies shall be filled on seniority -cum- fitness basis from Group 'D' employees of Central Ground Water

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Board who possess matriculation or equivalent qualification.

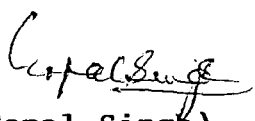
Note (a) Unfilled vacancies pertaining to a particular year shall not be carried over.

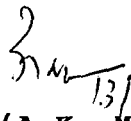
(b) If more of such employees than the number of vacancies available under Clause (ii) qualify at the said examination such excess number of candidates shall be considered for filling up the vacancies arising in the subsequent two recruitment years whereafter the panel will become infructuous."

8. It is seen from the above provisions that under earlier recruitment rules the period of validity of the selection panel was till the date it was exhausted, whereas in terms of Notification dated 22.1.1997, the life of selection panel has been restricted to 3 years. We are of the considered view that the modification carried out in terms of Notification dated 22.1.1997 would be applicable only prospectively and that too after the existing selection panel prepared under earlier rules are exhausted. The applicant had appeared in the departmental examination for the post of LDC in March, 1992 under the earlier recruitment rules and the modification sought to be introduced vide Notification dated 22.1.1997 would not be applicable to him. The panel dated 6.5.1992 and other panels prepared prior to this Notification dated 22.1.1997 will have first to be exhausted before any fresh panel is prepared in terms of Notification dated 22.1.1997.

9. We thus find that the application has much merit and deserves to be allowed. The O.A. is accordingly allowed with the above observations.

10. Parties are left to bear their own costs.


(Gopal Singh)
Administrative Member


13/11/98
(A.K. Misra)
Judicial Member

Aviator/