

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Date of Order : 18.01.2003.

ORIGINAL APPLICATION NO. 134/2001

Prithvi Raj S/o Shri Ram Bharose Prasad, aged about 35 years, Resident of Near Anjana Public School, Baropal Road, Suratgarh, District Sri-Ganganagar (Rajasthan). Presently working on the post of Chowkidar in the Office of the Central Cattle Breeding Farm (CCBF), Suratgarh.

.....applicant.

versus

1. Union of India through the Secretary, Ministry of Agriculture, Department of Animal Husbandry and Dairying, Krishi Bhavan, New Delhi.
2. The Director, Central Cattle Breeding Farm, Suratgarh (Rajasthan).

.....respondents.

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Mr. S.K. Malik, counsel for the applicant.

Mr. Vineet Mathur, counsel for the respondents.

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

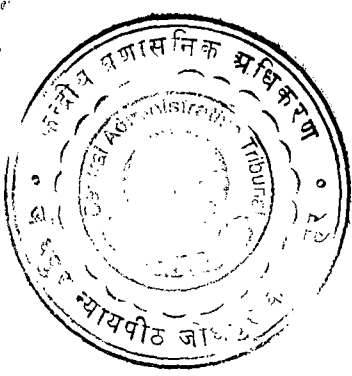
Hon'ble Mr. A.P. Nagrath, Administrative Member

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O R D E R

Per Mr. A.P. Nagrath, Administrative Member :

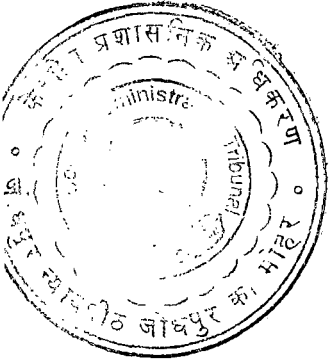
The applicant, who is working as a Chowkidar in the office of Central Cattle Breeding Farm (CCBF), Suratgarh, has filed this Application seeking directions to the respondents to consider his case for appointment on the post of Lower Division Clerk (LDC) as a departmental candidate against the promotee quota w.e.f. 8th April, 2001 i.e. the date from which the post of L.D.C. has fallen vacant on promotion of one Shri Rajendra Singh. He had submitted a



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representation to that effect to the respondents on 2nd May, 2001. Vide letter dated 5th May, 2001 (Annex.A/1), he was informed that promotee quota vacancy already stands filled up and that he has not completed the required length of qualifying service in Group 'D' which is five years. It has further been mentioned in that communication that now, the post of L.D.Cs shall only be filled up by the process of direct recruitment. It is this letter dated 5th May, 2001, placed at Annex.A/1, which has been assailed by the applicant in this Original Application.

2. Having perused the averments in the O.A., reply of the respondents and having heard the learned counsel for the parties, we find that presently, no cause of action has arisen against which the applicant could justifiably seek a legal remedy. It has not come out anywhere in the averments of the applicant and even at the stage of arguments advanced on his behalf by the learned counsel Shri S.K. Malik, that any process of recruitment or selection has been initiated by the department in which his claim has not been considered. It is also not the case of the applicant that any of his juniors has been promoted or are being considered for promotion whereas, he is being ignored. On the face of it, we find that there is nothing before us which needs adjudication and on this score alone, this Original Application deserves to be dismissed.



3. The facts of the case as stated by the applicant are that he was initially engaged on daily wages w.e.f. 2nd June, 1986. His services came to be terminated on 23rd of April, 1988. Against that termination order, he filed an O.A. No. 189/1989 which was decided on 14th of July, 1993 whereby, the applicant was ordered to be reinstated with immediate effect. In pursuance of the said order, he was reinstated and was later granted temporary status w.e.f. 1st of March, 1994. The grounds on which he is claiming promotion to the post of L.D.C. is that he possesses qualifications of M.Com and experience of typing in English and Hindi. He has stated that he worked on the post of L.D.C. albeit on ad hoc basis for periods from 1st October, 1987 to 28th of December, 1987 and from 1st of December, 1997 to 10th July, 2000 with intermittent breaks. According to the applicant one post of L.D.C. has fallen vacant on promotion of one Shri Rajendra Singh, to the post of U.D.C. w.e.f. 8th April, 2001 but, he is not being considered against the said post.

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4. The learned counsel for the applicant mainly stressed on the aspect that the applicant had worked as L.D.C. for a long period, even though on ad hoc basis and had a right to be considered. While referring to the impugned order Annexure A/1, he submitted that the department is denying consideration to the applicant for invalid reasons as the applicant possess the requisite length of qualifying service for being promoted to the post of L.D.C. He also drew our attention to the Recruitment Rules issued in 1976 (Annex.A/28), and contend that 5% of the vacancies are required to be filled up from amongst the Group - 'D' staff who possess matriculation or equivalent qualification. Since the applicant is M.Com, the learned counsel emphasizes that he is being denied consideration illegally. In support of the case of the applicant, the learned counsel cited the following cases :-

- i) Dr. A. K. Jain and Others Versus Union of India and Others and a batch - reported in 1988 SCC (L&S) 222;
- ii) Bhagwati Prasad Versus Delhi State Mineral Development Corporation reported in 1990 SCC (L&S) 174;
- iii) Jacob M. Puthuparambil and Others versus Kerala Water Authority and others reported in 1991 SCC (L&S) 25;
- iv) Ramkishan and others versus Union of India and others reported in 1992 SCC (L&S) 246;
- v) State of Haryana and others versus Piara Singh and others reported in (1992) 21 ATC 403 and
- vi) Rudra Kumar Sain & others versus Union of India and others reported in 2000 (4) SLR 787.



5. The claim of the applicant is totally rebutted by the respondents. It has been brought-out that the applicant has been absorbed in Group 'D' along with others by order dated 30th October, 1999. He is not the senior most person and that the promotee quota vacancy already stands filled-up and the remaining vacancies are required to be filled-up only by the process of direct recruitment.

7. The facts stated above, make it amply clear that the applicant has become a regular employee in Group 'D' only w.e.f. 30th October, 1999. It is not his case that any of his juniors have been promoted to the post of L.D.C. while he has been ignored.

7. We have perused the cases relied upon by the learned counsel for the applicant and we are not able to appreciate the context of those cases viz-a-viz the relief claimed by the applicant. All those cases relate to regularisation of daily wage employees or ad hoc employees. The case before us is of a regular Group 'D' employee seeking further advancement to a Group 'C' post.

8. As observed by us in the very beginning, the applicant has not been able to place/any order which could satisfy us whether any cause of action has arisen, of which he can justifiably be aggrieved. The impugned order dated 5th May, 2001 merely states that the promotee quota post has already been filled-up and other vacancies will be filled up by process of recruitment. We do not see any infirmity in this order. In any case, so long as there are seniors waiting for promotion, the applicant has no locus standi in the matter.

9. This Original Application is totally devoid of any merit and is, therefore, dismissed. No costs.

[A.P. Nagrath]
Adm. Member

[G.L. Gupta]
Vice Chairman

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