

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 318/2008

This the 23rd day of November, 2009.

C O R A M

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

- 1 M.B. Aaravindakshan Pillai
Lower Division Clerk
Employees Provident Fund Organisation
Sub Regional Office, Kochi-682 017
- 2 C.Pradeepan
Lower Division Clerk
Employees Provident Fund Organisation
Sub Regional Office, Kochi-682 017
- 3 P.K. Sasi
Lower Division Clerk
Employees Provident Fund Organisation
Sub Regional Office, Kochi-682 017

Applicants

By Advocate Mr. Vellayani Sundararaju

Vs

- 1 Union of India represented by
Secretary to Government
Ministry of Labour
New Delhi.
- 2 The Central Provident Fund Commissioner
Bhavishya Nidhi Bhavan
14-Bhikhaji Gama Place,
New Delhi.
- 3 The Regional Provident Fund Commissioner(I)
Kerala Region
Bhavishya Nidhi Bhavan,
Pattom, Thiruvananthapuram.

Respondents

By Advocate Mr.N.N. Sugunapalan, Senior & Mr.Sujin

The Application having been heard on 10.11.2009 the Tribunal delivered the following

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants seeks promotion to the post of Social Security Assistants by relaxing the Recruitment Rules.

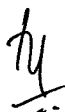
2 The applicants are working as Lower Division Clerks under the 2nd respondent w.e.f. 24.9.96, 24.7.95 and 3.9.03 respectively. The promotion from LDC was to UDC. But with effect from 3.1.2004 onwards, a new post named Social Security Assistant(SSA) was introduced in place of UDC with enhanced qualifications and passing a computer skill test, 15% of the SSA post was set apart for promotion of LDCs. Later, all regular and ad hoc UDCs were given absorption as SSA without conducting skill test. Subsequently the cadres of LDC and UDC were merged into the cadre of Social Security Assistant and direct recruitment to the cadre of LDC was stopped except departmental promotion from Group-D employees. The applicants could not qualify the Computer skill test. Except a few LDCs rest of them were given exemption in passing the Computer Skill test. Hence, the applicants submitted representations to promote them by granting them relaxation (A5, A-6 and A-7). The grievance of the applicants is that the third respondent is deliberately and intentionally delaying promotion of applicants to the post of SSA. Hence, they filed this O.A. to direct the 2nd respondents to consider and dispose of Annexures A-5 to A-7 representations and to issue a direction to the respondents 2 & 3 to promote the applicants as Social Security Assistants with retrospective effect. The main grounds urged by the applicants are that (i) in para 11 to the additional reply statement filed by the respondents in O.A. 730/2006 it is stated that

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a few vacancies of LDCs have become available by reckoning LDCs who failed in the Computer Skill Test as SSAs, (ii) they are fully qualified in computer works necessary for even a Sr. SSA (iii) passing computer test is not mandatory (iv) the respondents ought to have considered the representation submitted by them.

3 The respondents in the reply statement submitted that a new cadre of Social Security Assistant having the same pay scale of UDC i.e. Rs. 4000-6000 was introduced w.e.f. 3.1.2004. With the introduction of SSA cadre, the cadre of UDC has been declared as a dying cadre. The Recruitment Rules of SSA cadre prescribes 85% direct recruitment and the remaining 15% by Departmental examination/skill test. All the existing LDCs having matriculation qualification with five years of regular service were given chance of promotion subject to qualifying the Computer Skill Test (Annexure R-2). All LDCs possessing Matriculation having less than five years service were also given opportunity to compete in the Departmental Examination (Annexure R-3). The applicants had appeared in the Departmental Examination on two occasions but they could not get through the Computer Skill Test. They submitted that relaxation by way of exemption from qualifying Computer Skill Test was granted to all LDCs who have attained the age of 45 years and certain category of Physically Handicapped employees (Annexure R-4). They further submitted that passing of Computer Skill Test was a mandatory requirement for promotion as SSA. They have produced the order of this Tribunal in O.A.730/06 to oppose the contention of the applicants that the respondents in the reply statement in that O.A. stated to have issued instructions to reckon LDCs who have failed in computer skill test as SSA.

4 We have heard learned counsel for the parties.



5 The sole question that comes up for consideration in this O.A is whether the applicants are eligible to be promoted to the post of SSA without passing the computer skill test. The argument of the applicants is that they are entitled to be granted exemption from passing the skill test as has been granted to certain other categories and the averments of the respondents in para 11 of their reply statement in O.A.730/2006.

6 Neither the respondents nor the applicants have produced the full text of the Recruitment Rules of SSA or any amendment thereof. The respondents have produced only the rules without schedule (Annexure R-1). But there is no dispute that passing of computer skill test at the prescribed speed is a must for appointment to the post of SSA and that the department has granted exemption to certain categories of LDCs who have crossed the age of 45 and to certain Physically Handicapped employees.

7 The first contention of the applicants is based on the averment of the respondents in para 11 of Annexure A-10 reply statement filed by the respondents in OA.730/2006. The respondents in the reply statement opposed the above ground. The relevant portion is extracted below:

"Instructions to reckon the LDC's who failed in the Computer Skill Test as SSA was not for promoting them as SSA but to asses the available vacancies of LDCs for giving promotion to Group-D in future. The applicant in O.A. 730/06 was promoted to the post of LDC against 30% quota vacancy consequent on her qualifying the Departmental examination for promotion to the post of LDCs vide office order No. 258/07 dated 7.9.07. This Hon'ble Tribunal vide para 4 of the order in O.A. 730 of 2006 dealt with the prayer of the applicant seeking direction to the respondents to allow her to appear for the skilled test for promotion as SSA as she was having the requisite qualification to the post. The Prayer was declined as it was rightly observed that "when there are separate statutory Recruitment Rules to the category of SSA the respondents are bound to follow them and no deviation can be permitted to accommodate individual interests. Thus the contention of the applicant that the statement of the respondents

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that "Central Provident Fund Commissioner has issued instructions to reckon the Lower Division Clerks who failed in the Computer skill test as SSA" meant that those LDC's who failed to qualify were to be promoted as SSA would not hold water and thus fails."


Therefore, the contention of the applicants that they are also eligible to be promoted as SSG even though they failed in the Computer test is not tenable.

8 When the Recruitment Rules prescribes that pass in Computer Skill Test is necessary for conversion of an LDC to SSA, it has to be strictly adhered to. It is true that this condition was relaxed in certain categories by the Central Board. Computer literacy cannot be treated as equivalent to pass in the skill test. Other relaxation was granted to LDCs with regard to the 5 years service clause, and no relaxation in the condition of pass in skill test was granted. The applicants have no legal right to seek relaxation/exemption from pass in the skill test unless they come within the exempted classes. Therefore, the Tribunal cannot direct the respondents to relax rules. More over, the UDC cadre is the dying cadre and not LDC cadre.

9 In this view of the matter, we do not find any legally enforceable right to the applicants to be promoted as SSA without passing the Computer Skill Test. The O.A. is dismissed. No costs.

Dated 23rd November, 2009


K. NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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