

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 133/2010

This, the 8<sup>th</sup> day of April, 2010.

Hon'ble Mr. M. Kanthaiah, Member (J)

Hon'ble Dr. A. K. Mishra, Member (A)

Abhishek Yadav, aged about 30 years, Son of Sri Bhagwati Prasad Yadav, Resident of 2/652, Vikas Nagar, Lucknow.

Applicant

By Advocate Sri V.B. Kalia.

Versus

1. Union of India through Secretary, Department of Labour, New Delhi.
2. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi, through its Secretary.
3. Director General, Employees State Insurance Corporation New Delhi.

Respondents

By Advocate Sri A. K. Chaturvedi.

Order

By Hon'ble Dr. A. K. Mishra, Member (A)

This application is directed against the order dated 22.3.2010 of Union Public Service Commission (UPSC) by which his candidature for the post of Deputy Director in the Employees State Insurance Corporation (ESIC) was rejected.

2. The Advertisement No.50/2009 was issued by the UPSC on 9.5.2009 calling for applications of candidates for the post of Deputy Director (ESIC). The applicant was one such candidate. He appeared in the written examination conducted by the Commission on 9.8.2009. He was intimated in the letter dated 23.11.2009 of the Commission that he had qualified in the written



examination and that the date of interview would be informed later on. He was also asked in the same letter to furnish his full particulars in the prescribed form by 15.12.2009. The application form submitted by him, was scrutinized by the Commission and the impugned order was passed on 22.3.2010 informing him about his ineligibility on the ground that he did not have the requisite experience.

3. At the time of hearing, the learned counsel for the applicant submits that as per the advertisement, the requisite experience was indicated as 'about 5 years' of experience in supervisory capacity. In the prescribed application form, the applicant mentioned about having experience of 4 years and 5 months in supervisory capacity. According to him, the phrase 'about 5 years' could not have been interpreted to mean 4½ years and above. There was no such express interpretation by the UPSC at the time the advertisement was issued and applications were received. It was an after-thought which has been utilized post-advertisement to reject his application. If some one having 4 years and 6 months experience could qualify, why not him who had 4 years and 5 months of experience.

4. In reply, the learned counsel for the respondent commission submits that the principle of rounding off was applied uniformly in respect of all applications. In the absence of precise definition of 'about 5 years', it was interpreted that any one having experience of 4½ years and above would be eligible, not otherwise.




Unfortunately, the applicant failed short of that yardstick.

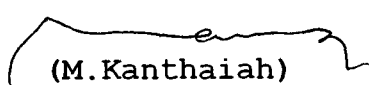
5. We would observe that use of term such as 'about 5 years' is not a happy one. It is expected that the UPSC which has years of experience in selecting candidates uses clear, unambiguous, well-defined terms in prescribing requisite qualification/experience giving little scope for discretionary interpretations. It should have been more appropriate if they had defined experience as 4½ years and above, or alternatively, 5 years and above instead of using an imprecise expression of 'about 5 years'.

6. Be that as it may, the interpretation offered on behalf of the respondents commission that the term 'about 5 years' has been defined as 4 ½ years and above, following the principle of rounding off is not an altogether unreasonable one. Since as claimed by the learned counsel for respondents, such a principle has been uniformly applied in respect of all candidates, the applicant cannot make a grievance out of it.

7. Subject to our observation that there is a need for greater clarity in the expressions used, which should be noted for future advertisements, we do not find any merit in this application. It is accordingly dismissed. In the circumstances, there is no need for issuance of any interim order.

  
(Dr. A. K. Mishra)  
Member (A)

8/4/10

  
(M. Kanthaiah)  
Member (J)