

(A2)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. No. 127/1990

Vishnu Prakash Sinha

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The services of the applicant were terminated vide order dated 30.3.1990. The said applicant applied for additional chance to appear in the Appendix II examination in view of the fact that he could not appear in 1987-88 examination due to illness in 1989 examination he has passed in 2 papers and only one paper he has been declared unsuccessful. His application for additional chance was pending and no decision was taken on it and his services ^{were} terminated. According to the applicant he was entitled to avail five chances. It is strange that although the applicant was entitled to a clear chance and one he could not avail of because of illness and yet he was deprived of the additional chance and his application remained pending. Without disposing of his application, ~~the~~ ~~Railway Board~~ ~~there~~ there was no question of termination of services. We have already held in O.A. No. 115/90 'R.K. Gupta and others vs. Union of India & others' in the similar matter regarding non-applicability of Railway Board circular and that the services cannot

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be terminated. As the applicant's case is distinguishable it stands on a better footing. This is being decided separately., but the grounds on which the applicant is to succeed that he was even not given the second opportunity and his prayer for second chance remained pending. The termination order is therefore, quashed and the services will not be terminated and the prayer for additional chance and change of category shall also be considered and will be decided in accordance with law. Taking into consideration that the category has been changed after 1986 the applicant is entitled to avail of the second chance in any view of the matter.

The application is disposed of as above with no order as to costs.

Jhansi 25

Adm. Member.

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Vice Chairman.

Alka
Lucknow Dated 21 -7-91.

Shakeel/