

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

O.A. No. 152/91

Lucknow this the 14th day of August, 2000.

HON. MR. D.C.VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

Raja Lal Dubey aged about 37 years son of Shri Ram Sunder Dubey, resident of A/8, CSIR Colony Niralanagar, Lucknow.

Applicant.

Shri Surendran P. for applicant.

versus

1. Union of India through its Secretary Ministry of Science and Technology New Mehrauli Road, New Delhi.
2. Director General C.S.I.R. Rafi Marg, New Delhi.
3. Joint Secretary (Administration) CSIR, Rafi Marg New Delhi.
4. Director, I.T.R.C. Mahatma Gandhi Marg, Lucknow.
5. Controller of Administration, I.T.R.C. Lucknow.
6. Mrs. C.K. Takru, L.D.C. I.T.R.C. Lucknow.
7. Mrs. Kamta Prasad, L.D.C. I.T.R.C. Lucknow.
8. Miss Paula Tirkey, L.D.C. I.T.R.C. Lucknow.

Respondents.

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For respondents 2 to /Shri P.K. Srivastava.

O R D E R

BY D.C.VERMA, MEMBER(J)


The relief claimed in the O.A. is that the applicant be promoted as Lower Division Clerk (L.D.C.) w.e.f. 23.2.85 and thereafter to place the applicant's name in the seniority list at the correct place and quash the adhoc promotion of respondents 6, 7 and 8 on the post of U.D.C.

2. The relevant facts in brief, for purposes of deciding the issue in the present case are that the applicant was initially engaged as a Group D employee in the Industrial Toxicology Research Centre (in short I.T.R.C) and was later confirmed w.e.f. 23.2.80. The

applicant was subsequently promoted as L.D.C. vide order dated 10.6.87. A tentative seniority list was published and representations were received. The representation of the applicant was considered and the applicant's name was brought up in the seniority list from position at 6 to position at 5. The applicant's claim is that the applicant became eligible for promotion w.e.f. 23.2.85 and so the applicant was to be promoted to the post of L.D.C. w.e.f. the same date. In case the applicant is promoted w.e.f. 23.2.85, he will get back his seniority and will become senior to the other private respondents.


3. The respondents' case is that the promotion to the post of L.D.C. is 80% on direct recruitment basis and 20% on the basis of Limited Departmental Examination. No appointment to the post of L.D.C. was to be made on promotion basis as claimed by the applicant. It has been thus, submitted that the applicant is not entitled to any relief.

4. Heard the learned counsel for the parties at great length. As per the Council of Scientific and Industrial Research Administrative Service (Recruitment and Promotion) Rules, 1982 (in short the Rules of 1982) the recruitment to the post of L.D.C. is to be made on local basis in the Central office and in each National Laboratory by direct recruitment as a result of competitive examination held from time to time from amongst the candidates possessing minimum Educational Qualifications prescribed therefor. The provision to the rule provides that 20% of the vacancies in the Cadre of L.D.C. in a national laboratory/Institute and 10% of the vacancies in the C.S.I.R. Headquarter occurring in a year shall be filled from amongst Group D (non-technical) on regular establishment on the basis of selection made



through Departmental competitive examination. Admittedly, I.T.R.C. is a National Laboratory. The applicant's claim is that 20% of the vacancies to be filled up through Departmental competitive examination is a promotion post and therefore, the applicant should have been promoted in the year 1983. No post of L.D.C. was filled up between February 1983 to June 1987. As per his own pleadings, the applicant became eligible for promotion on 23.2.85. There being no vacancy in 1985 the applicant could not have been promoted. The vacancy was available in the year 1987 only. Thus, the promotion of the applicant could ~~not~~ have been considered only in the year 1987. Merely because the applicant became eligible for promotion, it will not give rise a right to the applicant for promotion on completion of the eligibility conditions.

5. We however, in this case have ^{to} examine the applicant's claim that ~~the applicant's claim that~~ the post of L.D.C. is to be filled up on promotion basis. We ~~however~~, find from the recruitment rules, as referred ~~to~~ above, that only two mode of recruitment to the post of L.D.C are provided; one is on direct recruitment basis and the second is by Departmental Competitive Examination. The post of L.D.C is not to be filled up on the basis of seniority cum suitability or seniority cum merit. The applicant claims that promotion within 20%. The ~~direct~~ recruitment under this 20% quota can be made only if a Group D employee having at least 5 years experience clears the Departmental Competitive Examination and possesses minimum educational qualification and typing test. If a Group D employee has less than five years experience, or fails to clear the Departmental Competitive examination, such a Group D employee cannot be allowed to fill up the vacancy of L.D.C. under 20% quota. In the present case, admittedly, the

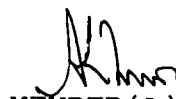


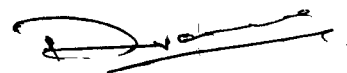
applicant failed to qualify the test held on 7.3.87. The applicant cleared the test held on 9.6.87 only. There was no post available in the year 1985. Thus, the applicant cannot claim to have been promoted in the year 1985. When the applicant cleared the subsequent test held in June, 1987, the applicant was promoted and therefore, the applicant was rightly promoted to the post of L.D.C. vide office Memo dated 10.6.87. The applicant's claim that 20% vacancies are to be filled on promotion basis has no merit. The same is rejected.

6. The submission of the learned counsel for the applicant that as per illustration below para 2.4.2 of the Office Memorandum dated 3.7.86 (Annexure-9 to the O.A.) a promotee is to occupy the first vacancy of the year and consequently, the applicant should have been given the first place, has no merit. As has been held above, the applicant is not a promotee. He was appointed as L.D.C. only through Departmental Examination and therefore, he cannot claim the benefit of the illustration given in the Office Memorandum dated 3.7.86.

7. In view of the discussions made above, the applicant's claim that he is senior to the respondent No. 6 to 8 has no merit and is rejected. In view of the discussions made above, the main relief of promotion w.e.f. 1985 has no merit, the other relief of seniority does not stand and consequently, all the other reliefs also fail as of no merit.

8. In the conspectus of the case, the O.A. is dismissed. Costs easy.


MEMBER(A)


MEMBER(J)

Lucknow; Dated: 14.8.2000

Shakeel/