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CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH,

LUCKNOW.

O.A. No.140/91 (L)

Arvind Kumar Sharma : : : : : Applicant

vs.

Union of India &
Others.

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

Hon. Mr. K. Obayya, A.M.

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

The applicant was appointed as Mazdoor in the Ordnance department, C.O.D., Kanpur, on 30-11-83.

According to the applicant he was assigned various clerical work and was never assigned the work of Mazdoor. He was discharging the duty of Class-III from the date of his initial appointment but was given only the salary of Class IV employee. This fact is also proved by the letter dated 14-3-87 written by Major Shri P.S.Hundal, Commander, Sub-Depot, in which it is clearly written that the petitioner is well qualified and due to his capabilities, he has been assigned the work of Class III Post. It was mentioned that there is shortage of Class III staff and that is why the petitioner and others have been picked up and given the jobs of Clerks. The applicant is also a holder of 'C' certificate of Air Wing of N.C.C. and has been given the certificate of Best worker in the year 1988 by Commander, COD, Kanpur. According to the applicant he has faced the departmental examination, but was not declared successful, but even then the respondents continued to entrust the work of Class III post. In spite of this fact he was never

paid salary of Class III post. As such the applicant has approached this Tribunal praying that the respondents be directed to regularise him Class III post giving salary and consequential grade etc.

2. The respondents have opposed the application and stated that the applicant was employed as Mazdoor in the pay scale of Rs.196-232. As he was literate labour, he was directed to assist the regular ministerial staff of COD, Kanpur. This opportunity was given to him so that he may improve his efficiency in qualifying the departmental test for promotion to class III post. He appeared in the departmental examination, but he could not qualify in the same. A copy of the result is placed on records. The respondents have denied to have assigned the duties of Class III post to the applicant and as a matter of fact he was directed to assist the ministerial staff and he was doing the said work.

3. The admitted position is that the applicant, who is a qualified person, has been directed to assist the ministerial staff. He has been assisting the Class-III staff meaning thereby he has been doing the work of Class-III post. It may be that he has not succeeded in the departmental examination notwithstanding the fact that he is a qualified person and has gained experience, but that should not be the end of the matter. Accordingly the respondents are directed to give another opportunity to the applicant positively within a period of three months from the date of communication of this order and test him departmentally taking into consideration the fact he is a qualified person and has gained experience also. In case he succeeds, he may be regularised in

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Class III post in view of the fact that work is available, otherwise the assistance would not have been taken from a mazdoor. The application stands disposed of in the above terms. No order as to the costs.


Member (A)


Vice-Chairman.

Dated: 25th February, 1993, Lucknow.

(tgk)