

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 565/2005

This the ^{20th} day of January , 2009

Hon'ble Mr. M. Kanthaiah, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)

Krishna Murari aged about 40 years son of Chhota presently posted as Notice Server , Office of the Additional Commissioner, Income Tax V, Lucknow.

Applicant

By Advocate: Sri A.K.Srivastava

Versus

1. Union of India, through Secretary, Revenue, Central Civil Secretariat, North Block, New Delhi.
2. The Chief Commissioner of Income Tax (Cadre Controlling Authority), Lucknow.
3. The Commissioner of Income Tax I, Lucknow.
4. The Commissioner of Income Tax II, Lucknow.
5. The Chairman, Departmental Promotion Committee, Office of Chief Commissioner , Income Tax, Lucknow.
6. Gopal Singh, Tax Assistant, Office of the Income Tax Commissioner, Lucknow.
7. Subhash Chandra ,Tax Assistant, Office of the Commissioner of Income Tax, Faizabad.
8. Satya Narain, Tax Assistant, Office of Income Tax Commissioner, Varanasi.
9. Atal Behari Pandey, Tax Assistant, Office of Income Tax Commissioner ,Faizabad.
10. Maksoodan Singh, Tax Assistant, Office of Income Tax Commissioner, Gorakhpur.
11. Triveni Prasad, Tax Assistant, Office of Income Tax Commissioner, Lucknow.



12. Ram Kumar Sonkar, Tax Assistant, Office of Income Tax Commissioner, Allahabad.

13. Dilip Kumar, Tax Assistant, Office of Income Tax Commissioner, Faizabad.

Respondents

By Advocate: Sri Vishal Chowdhary for Km. Asha Chowdhary.

ORDER

HON'BLE DR. A.K. MISHRA, MEMBER (A)

The applicant has challenged the order dated 19.11.2004 of Respondent No. 2 in which his juniors have been recommended for promotion to the post of Tax Assistant as well as the letter dated 19.10.2005 in which it was informed to him that he was not eligible for promotion to the said post as per Recruitment Rules 2003 as he did not have the prescribed educational qualification of matriculation or equivalent thereof.

2. The applicant had filed O.A. 360/2005 agitating the issue of his promotion to the post of Tax Assistant with consequential benefits from the date his juniors were given the promotion. The Tribunal in its direction dated 30.8.2005 asked the Respondent No. 2 to dispose of the representation of the applicant by a speaking order. In the impugned letter dated 19.10.2005, he was informed that he did not have the eligibility as he did not have the requisite educational qualification i.e. matriculation pass.

3. The applicant passed Prathama Examination conducted by Hindi Sahitya Sammelan Allahabad. He filed the Gazette Notification of the Ministry of Human Resource Development, Department of Secondary and Higher Education (Annexure 19) to the effect that the Central Government had recognized passing of Prathama Examination



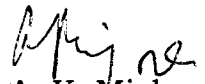
conducted by Hindi Sahitya Sammelan Allahabad as equivalent to pass in matriculation for the purpose of employment under Central Government. This validity of notification was being extended from time to time and holds the field even now. In other words, the Human Resource Development Ministry of Government of India has recognized passing of Prathema Examination as equivalent to passing matriculation examination. Therefore, his candidature was unfairly withheld by the respondent authorities.


4. The counsel for the respondents submits that the matter was referred to the Director Higher Secondary Education Government of U.P. for a clarification. They have replied in their letter dated 28.11.2002 Annexure R-2 that passing of Prathema has not been recognized by the Board of Secondary Education, U.P. as equivalent to passing the High School certificate examination. On the other hand, a student passing Prathema Examination could be admitted to the 9th Class. On the basis of such clarification from the Board of Secondary Education, U.P., the applicant was not considered as eligible for promotion. However, they have not controverted the submission that Government of India in the Ministry of Human Resource Development Department of Secondary Higher Education have recognized Prathema pass as equivalent to pass in matriculation examination. In view of such authentic clarification from the relevant Ministry of Government of India, there was no cause for making any reference to any agency of the state Government. Therefore, we find that the grievance for the applicant is genuine. He has been unfairly denied the promotion on an invalid ground in view of the recognition granted by the Government of India to Prathema examination.

5. In the result, the impugned order dated 19.11.2004 passed by the respondent No. 2 is quashed and the respondents are directed to



consider the case of applicant for promotion from the date his juniors were promoted. If necessary, a Review DPC may be held to consider the case of the applicant within two months from the date a copy of this order is received by them. No costs.


(Dr. A. K. Mishra)
Member (A) 20/1


(M. Kanthaiah)
Member (J)
20.01.2009

v.