

AS

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION NO. 672 of 1989(L)

Suresh Chandra Gupta & Others Applicants

Versus

Union of India & Others Respondents

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

Hon'ble Mr. K. Obayya, Member (A)

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

The applicants who were employed as Telecom. Office Assistants (TOAs), in the office of the General Manager, Kanpur Telephones, in the year 1982. They appeared in the P & T Junior Accounts Officers' Examination part II, which was held on an All India Basis in December, 1982. The names of successful candidates were announced on 22.4.1983, but names of some of the candidates who appeared from seven Centres in the country including the Kanpur wherefrom the applicants appeared, were not announced and it was mentioned that the said result will be announced later on. The result was withheld and the communication in this behalf was given. The applicants No. 1 to 5 were declared to have passed the P & T Junior Accounts Officers Examination in the year 1982 and as per merit list, they were placed at top, before the candidates at serial No. 1 of the pannel which was announced on 22.4.83. Similarly, the names of others applicants were also announced. It appears that there was some complaint of unfair means adopted in the examination for which the notices were given to the applicants and the applicants refuted the charges and the enquiry took place and in the enquiry, the applicants were completely cleared out. With the result, that they were given postings as Junior Accounts Officers only on 3.7.1985,

Contd..2/-

:: 2 ::

instead of 1982 and 1983, they were posted in the year 1985, they lost their annual increments also. The applicants moved representations for stepping up and proper fixation of their pay but apart from assurance, nothing was done. The instructions for restructuring of Accounts Staff in organised Accounts Cadre were issued and it was decided to place 80% of the posts of the Junior Accounts Officers in the scale of pay of Rs. 1640-2900 in the higher grade of Rs. 2000-3200/- with effect from 1.4.1987, with the designation of Deputy Accounts Officers. The three years service, the lower post was required, with the result that those who were appointed earlier, during the period when the enquiry was going on, got the promotion and the applicants were deprived of the promotion then. Failing to get any relief on all this posts, the applicants have approached this tribunal praying that the respondents be directed to consider the promotions of the applicants to the posts of Assistant Accounts Officers with effect from the due dates in accordance with the seniority & positions/merit gradings of the applicants in the pannel of successful candidates of the 1982 batch of Junior Accounts Officers, as per result declared and they may also be granted promotions with effect from 1.4.1987, their juniors having been so promoted with effect from 1.4.87 vide promotion orders dated 19.2.1988, 18.7.1988 and 27.12.1988 and the applicants may also be granted consequential benefits and one who is the member of S.C. community may also be given the benefits of 40 point roaster and the applicant one of them belongs to that community.

2. The respondents have opposed the application as usual and according to them, it is because of the mal-practice in the examination and the certain enquiry took place and it is only after, the enquiry was over, the appointment order

A7

:: 3 ::

was issued and no appointment could have been issued earlier and for the higher post, three years actual service is a must and the applicants not having three years service, they were not entitled to higher promotion and they could be promoted only after completion of three years. So far as the factual position is concerned, that is obviously correct. Because the applicants were completely exonerated in the enquiry which took place, obviously, no fault appears that they were thus deprived of their appointment to the post of Junior Accounts Officer. After their clearance, they were given appointment, but in view of the fact that they were not responsible, though actually they can not get promotion but their appointment to the post of Junior Accounts Officer will be deemed to be with effect from the date, the juniors were appointed and the position will be the same as in the merit list.

3. As such the applicant will be deemed to have been appointed as Junior Accounts Officer notionally with effect from the date, though the juniors in the list and the result was declared, given the said appointment. As far as the promotion to the higher post is concerned; as under the rules, three years actual service was necessary and it is true that the applicants were deprived of three ^{years} actual service for no fault of theirs and they could get promotion only after three years. The actual promotion, they have got only after three years, but in view of the fact that they were not responsible, their promotion will notionally date back from the date, the juniors were promoted. With the result, that although, the applicants will not be entitled to get monetary benefits of these notional appointment and notional promotion which they get by legal fiction, but for all other purposes, it will deem, as if they were appointed alongwith others in the year 1983 to the Post of Junior Accounts Officer and

A8

:: 4 ::

promoted in the year 1987 alongwith these person and all the other consequential benefits will also be taken from the respondents. No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 29.1.1993.

(RKA)