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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH

LUCKNOW

O.A.No. 144/92

Deo Narain Misra.....Applicant

Versus

Union of India and others..Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. K. Chayya, A.M.

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

As the pleadings are complete, the case is being heard and disposed of finally.

2. The applicant has approached this Tribunal as he was debarred from promotion in the year 1980-81 and thereafter for promotion to the post of Inspector post Offices and allegedly on the ground that there were adverse remarks against the applicant which were quashed vide order dated 14.1.81. The applicant started his service as a clerk in the Post and Telegraph Department from the month of December 1971 and according to him he appeared in the examination of Inspector of Post Offices ~~and~~ in the year 1977-78 and was declared successful but was not given promotion as there were paucity of posts at that time. The respondents have stated that averments made by the applicant in this behalf was not correct as in the year 1977-78 ^{was} he/ never declared successful for the examination held for the selection to the post of Inspector of Post Offices/ Inspector Railway Mail service in the year 1977-78. In August 1980 the applicant was not allowed to appear in the examination, and allegedly on the ground that there were adverse remarks against the applicant though the respondents have stated that his services were not found satisfactory and the good and satisfactory record of service was a condition precedent under the

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16

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in view of the fact that the adverse remarks against the applicant have been expunged but he was not allowed to appear in the examination. In the counter affidavit it has been further stated that the punishment was awarded to the applicant it was probably steppage of increment for 6 months without future effect, but the appellate authority vide order dated 9/14.1.1981 reduced it to the censure. Needless to say that the legal position is that the censure entry cannot stand in the way of promotion of a particular person even if the censure entry was there, the applicant could have been promoted. It has been stated by the respondents that even though the examination took place thereafter but the applicant did not apply for appearing in the said examination. The applicant has been claiming promotion from the back date and it appears that it is because of the legal procedure which he did not apply for the same as in his case he was entitled to promotion from the very first year. As the adverse entry has been expunged, the respondents are directed to allow the applicant to appear in the examination and in case he succeeds in the examination he may be promoted and the question whether he is promoted with retrospective effect or retrospective is to be decided by the department in accordance with law.

No order as to the costs.

[Signature]
A.M.

[Signature]

V.C.

Dated: 7.8.1992

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