

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. 704/96

Dated this Wednesday, the 10th day of October, 2001.

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).

Hon'ble Shri B. N. Bahadur, Member (A).

Vijay Vighneshwar Dhone,
Peon,
O/o. the Deputy Director,
Ministry of Food Processing
Industries, Govt. of India,
Department of Food and Vegetable
Preservation, Old C.G.O. Bldg.,
M.K. Road, Mumbai - 400 020.

... Applicant.

(By Advocate Shri S. P. Kulkarni)

VERSUS

1. Union of India through
The Deputy Director,
Fruit & Vegetable Preservation,
Ministry of Food Processing
Industries, Western Region,
Old C.G.O. Bldg., 3rd floor,
10, M. K. Marg, Mumbai - 400 020.
2. Under Secretary to the Govt.
of India, Ministry of Food
Processing Industries,
Panchsheel Bhawan, Kheilgaon Marg,
New Delhi - 110 049.
3. The Deputy Director,
Staff Selection Commission,
Army and Navy Building,
M.G. Road, Mumbai - 400 023.

... Respondents.

(By Advocate Shri V. S. Masurkar)

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J).

In this application, the applicant's main grievance is that he has not been considered for promotion to the post of Lower Division Clerk (LDC) for which he has, inter alia, prayed for a direction to the respondents to relax the Recruitment Rules so that he could be considered and promoted.

2. *The facts and issues raised in this case fall within a limited compass. Admittedly, the applicant is working in a Group 'D' post in the Office of Respondent No. 1, which is a Subordinate Office and is not part of the participating Ministries/Departments in the Central Secretariat Clerical Service (C.S.C.S.). In the circumstances, the learned counsel for applicant has vehemently submitted that it is most discriminatory that the Recruitment Rules for promotion of Group 'D' employees to LDC cadre do not take into account the Offices like the one in which the applicant is working. To this, Shri V.S. Masurkar, the learned counsel for respondents, has correctly pointed out that there is no challenge to the Recruitment Rules in the O.A., which is not disputed by the learned counsel for applicant. It is further relevant to note that the learned counsel for applicant has submitted that although the applicant*

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has not been considered for promotion to the post of LDC in terms of the provisions laid down in "The Central Secretariat Clerical Service (LD Grade Qualifying Exam for Gr. D Staff) Regulations, 1969", the applicant has got at least two promotions in the meantime under the Assured Career Progression Scheme (A.C.P. Scheme). The learned counsel for respondents has submitted an additional written statement dated 08.10.2001 with copy to the opposite side, which is taken on record.

3. Shri Kulkarni, learned counsel, has submitted that although the applicant might have received the promotions under the A.C.P. Scheme, however, when respondents are considering others for promotion on ad hoc basis as LDC, there is no reason why the applicant should not be similarly considered. According to him, the applicant fulfills the eligibility conditions for the post of LDC. Shri Masurkar, learned counsel has fairly submitted that at present there is no vacant post available in the Respondents' office but as and when it arises, the respondents will consider the applicant's claim for ad hoc posting subject to his fulfilment of the eligibility conditions as laid down under the Recruitment Rules.

4. In the facts and circumstances of the case, we do not find any merit in this application and no such directions, as

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prayed for by the applicant for promotion to the post of LDC or for a direction to the respondents to relax the relevant Recruitment Rules can be given. However, it would also be relevant to note that it would be in the fitness of things for the respondents to consider the matter whether Group 'D' employees working in the Subordinate Offices, like the office under Respondent No. 1, should also be included as a participating Ministry/Department within the provisions of the aforesaid Recruitment Rules of 1969 and, if necessary, by suitable amendments.

5. For the reasons given above, the O.A. fails and is dismissed subject to the observations made above. No order as to costs.

B. N. Bahadur

(B. N. BAHADUR)
MEMBER (A).

Lakshmi Swaminathan

(Smt. LAKSHMI SWAMINATHAN)
VICE-CHAIRMAN (J).

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