

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 19 AUG 1988

APPLICATION NO.

673

/88(F)

W.P. NO.

Applicant(s)

Shri B. Puttaswamy Gowda

To

1. Shri B. Puttaswamy Gowda  
Daftry  
Central Bureau of Investigation  
S.P.E. Division  
Bellary Road  
Bangalore - 560 003
2. Shri M. Madhusudan  
Advocate  
914, 7th Cross, 7th Main  
Ashoknagar  
Bangalore - 560 050
3. The Director  
Central Bureau of Investigation (CBI)  
New Delhi

Respondent(s)

V/s The Director, CBI, New Delhi & 2 Ors

4. The Superintendent of Police  
Central Bureau of Investigation (HQ)  
Bellary Road  
Bangalore - 560 003
5. Smt Anima Roy  
Lower Division Clerk  
Central Bureau of Investigation  
Thana Road  
Calcutta
6. Shri M. Vasudeva Rao  
Central Govt. Stng Counsel  
High Court Building  
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAX~~/~~INTERIM~~ ORDER  
passed by this Tribunal in the above said application(s) on 12-8-88.

Encl : As above

DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE TWELFTH DAY OF AUGUST, 1988.

Present : Hon'ble Sri Justice K.S. Puttaswamy Vice Chairman

Hon'ble Sri P. Srinivasan

Member (A)

Application No. 673/88(F)

B. Puttaswamy Gowda,  
W/a Daftry, CBI,  
SPE Divn., Bellary Road,  
Bangalore.

...

Applicant

( Sri M. Madhusudan

...

Advocate )

vs.

1. The Director,  
CBI, New Delhi.

2. The Superintendent of  
Police, CBI (HQ),  
Bangalore.

3. Smt. Anima Roy,  
LDC, CBI, Thana  
Road, Calcutta.

...

Respondents

( Sri M. Vasudeva Rao

...

Advocate )

This application having come up before the  
Tribunal, Hon'ble Member (A) made the following :

O R D E R



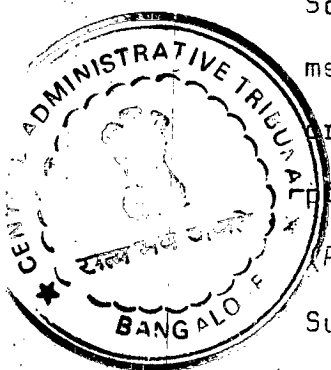
The applicant before us has been working as a Daftry in the Office of the Supdt. of Police, Central Bureau of Investigation at Bangalore (SPE Divn. CBI Bangalore) since 4.8.1971. He passed the Departmental examination for promotion to the post of Lower Division Clerk (LDC) in 1981. According to the recruitment rules on the subject 10% of vacancies of LDC is reserved for promotion from among Class IV employees including Daftry. The applicant has also passed the SSLC examination.

P. Srinivasan

His complaint is that though he has acquired the requisite educational qualification and has passed the departmental examination for promotion he has not been considered for promotion all these years. He complains that R-3 who is junior to him has been promoted as LDC.

2. Sri M. Madhusudan, learned counsel for the applicant, submits that for promotion to the 10% quota available for Class IV employees, a departmental examination is held which is a qualifying examination. Among all qualified candidates promotion has to be made on the basis of their seniority provided they have the minimum educational qualification of Matriculation or SSLC pass. The applicant qualified in the departmental examination in 1981 and has also passed SSLC. R-3 was junior to the applicant but she has been appointed. He, therefore, submitted that this Tribunal should direct the respondents to accord promotion to the applicant to the post of LDC.

3. Sri M. Vasudeva Rao, appeared for the respondents and submitted that no person junior to the applicant had been promoted in the 10% quota. So far as R-3 was concerned, she was given appointment on compassionate grounds in the direct recruitment quota and not in the quota reserved for promotion. Referring to the letter dated 8.3.1988 (Annexure C to the application) addressed by the Supdt. of Police, CBI HQ, New Delhi to the SP CBI Bangalore wherein the former had stated that the



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applicant be considered for appointment as LDC against an existing vacancy since he fulfilled all conditions as per the recruitment rules, Sri Rao, submitted that the SP CBI Bangalore had sent a reply to this letter to the SP, CBI HQ New Delhi. In the reply dated 28/29.3.1988, the SP Bangalore wrote inter alia that somebody else had been appointed as LDC on compassionate grounds and so there was no vacancy and also that unless the applicant qualified in the departmental examination he could not be promoted to the grade of LDC. He also wanted to know whether the applicant should be subjected to a special test for promotion. On this the SP, CBI HQ, New Delhi, made a note stating that the applicant could not be promoted unless he qualified again in the departmental examination subject to availability of 10% quota vacancies. In view of this Sri Rao submitted that the application deserved to be dismissed.

4. We have considered the matter carefully. We have perused the recruitment rules for appointment of LDCs produced by the respondents. The rules provide thus -

"10% of the vacancies in the grade of Lower Division Clerks, to be filled by direct recruitment, will be reserved for being filled by Class IV employees (borne on regular establishment), subject to the following conditions :-

- a) Selection would be made through a departmental examination confined to such class IV employees who fulfil the requirement on minimum educational qualification namely Matriculation or equivalent.

...4/-



- b) The maximum age for this examination would be 40 years (45 years for Scheduled Caste/Scheduled Tribes candidates).
- c) At least 5 years service in Class IV would be essential.
- d) The maximum number of recruits by this method would be limited to 10% of the vacancies in the cadre of Lower Division Clerk occurring in a year; unfilled vacancies would not be carried over."

The rules do not say that a person should pass the examination every time a vacancy arises. Moreover, they do not state that it is a competitive examination; it is therefore clear that it is only a qualifying examination to be passed once. Among those who qualify in the examination promotions are to be made according to seniority as and when vacancies arise. We may in this connection quote usefully from an order of a Bench of this Tribunal dated 13.6.1988 passed in A No.822 and 823/87 -

"The examination prescribed for the post of Assistants under Rule 6 of the Recruitment Rules was a 'qualifying examination' and not a 'competitive examination'. A qualifying examination, in a department merely decides the fitness or otherwise of the person for the post. The fitness or otherwise of the person is decided once and for all and not again and again intermittently as in a competitive examination....".

In view of this we see no merit in the objection raised by the respondents that the applicant cannot be promoted unless he passes the departmental test again. Since he has already qualified in the departmental examination, he is eligible for promotion, according to his seniority among those



P. L. G. S.

who have so qualified. The applicant is prepared to accept promotion even if he is posted anywhere in the country. We, therefore, direct the respondents to consider the case of the applicant for promotion in the next vacancy since he is in all respects eligible for such promotion.

5. Since R-3 has been given appointment in the direct recruitment quota on compassionate ground we reject the objection of the applicant against her promotion.

6. The application is disposed of with the direction that the Respondents 1 and 2 should consider the case of the applicant for promotion to the next vacancy of LDC wherever it may arise, since he is in all respects eligible for such appointment. Parties to bear their own costs.

Sd/-  
VICE CHAIRMAN

Sd/-  
MEMBER (A)

12/10

TRUE COPY



*[Signature]*  
DEPUTY REGISTRAR (JDL)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE  
19/10