

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1378/94

Date of Decision: 22.06.99

Shri O.R.Bhaskaran

Applicant.

Shri R.P.Saxena

Advocate for
Applicant.

Versus

Union of India

Respondent(s)

Shri R. K. Shetty

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice K.M. Agarwal, Chairman.

Hon'ble Shri. R.K.Ahooja, Member(A).

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to other Benches of the Tribunal?

abp.

Dey
(R. K. AHOOJA)
MEMBER(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO: 1378/94.

DATED THE 21st DAY OF JUNE, 1999.

CORAM: Hon'ble Shri Justice K.M. Agarwal, Chairman.

Hon'ble Shri R.K. Ahooja, Member(A).

Shri O.R. Bhaskaran,
8 Kalpana, C.S.D. Estate,
Rifle Range, Ghatkopar(West),
Bombay - 400 086.

... Applicant.

By Advocate Shri R.P. Saxena.

v/s.

Union of India, through
The General Manager,
Canteen Stores Department,
ADELPHI 119, M.K. Road,
Bombay - 400 020.

... Respondents.

By Advocate Shri R.K. Shetty.

I O R D E R I

I Per Shri R. K. Ahooja, Member(A) I

The applicant has come before the Tribunal with the allegation that though eligible and entitled, the respondents have denied him participation in the Cadre Course(Training) for Accountants scheduled to be conducted at Bharatiya Vidya Bhavan, Bombay with effect from 26/12/94 to 7/1/95. According to the recruitment rules 1979, persons working in the Canteen Store Department, Ministry of Defence holding ministerial posts in the scale of 1200-2040 (pre revised) with 3 years regular service are eligible for promotion to the post of Accountants in the scale of 1640-2900, subject to passing the departmental test. For passing the departmental test, an Cadre Course for Accountant is/indispensable requirement.

It is the case of the applicant, that he has been working in the ministerial post as Upper Division Clerk since 28/11/91 and is entitled to be considered for the post of Accountant if found fit by DPC after completing the 3 years service and the Cadre Course. On that basis he claims that he is entitled

Q

to be retained for such training.

2. When the matter came up before the Tribunal on 28/12/94, Interim directions were given as follows:-

"Respondent is directed to detail the applicant for training course of Accountant immediately on provisional basis against the vacancies of 'Nominated UDCs' who have not yet reported to attend the course."

Although the applicant was deputed for the training course as per the directions of the Tribunal, his result has been kept in sealed cover.

3. The respondents in the reply have stated that since only those who have done the Accountants Cadre Course are allowed to take the departmental test, it is only fair that only senior persons nominated for the Accountants Cadre Course be considered since otherwise any junior who is deputed to Cadre training course will demand promotion to the post of Accountant in supercession of seniors who might not have been nominated to the Cadre Training Course.

The respondents had called for the applications for being sent for the Cadre Training Course with last date as 15/3/92. On that date, the applicant had not submitted the application and he had not completed 3 years of qualifying service in the post of Upper Division Clerk. His position in the seniority list was also at Sr.No. 200. From the 1992 applicants, it was found that there were 107 departmental candidates eligible for nomination to the training course. As it was not administratively feasible to conduct the training for all the 107 candidates simultaneously, the same was taken batch wise. In the first batch only 45 candidates were taken. Subsequently, in 1994 from the same list of 107 candidates, the remaining 62 candidates were nominated but only 40 turned up for the course. It commenced on 26/10/94 till 7/1/95. The applicant's case was that by the date the second course was being conducted, the applicant had completed the requisite three years of qualifying

On

service and it is on that basis that he had claimed entitlement to be nominated for the training course.

4. Having heard the counsel and perused the record, we find that the case of the applicant has no merit whatsoever. The applicant has annexed at Annexure-4, copy of his request for exemption of 3years qualifying service. This letter dated 18/5/92 in the letter he explains that he was promoted to the grade of Upper Division Clerk only in 1991 and he makes a request in the letter that he be given exemption for being nominated for the cadre course of Accountants under the rules. By Annexure A-12, 12/12/94, he states that he has now completed 3years requisite qualifying service. The circular of the department inviting nominations of eligible employees is at Annexure A-2 and is dated 20/2/92 and 15/3/92 is the last date for receipt of application. Clearly therefore, the applicant was not eligible and was not entitled to be considered on 15/3/92. It is not his claim that another letter inviting fresh application was issued in 1994. Hence he cannot make a claim for consideration on the basis of the 1992 letter. If his contention is accepted that as the training course was being conducted in December, 94 and he had by that date become qualified and should be sponsored, then it would mean discrimination to all those who were similarly placed as the applicant but who did not apply by 15/3/92 as they had not completed the requisite 3years of service. In case any relaxation was to be given, such relaxation had to be across the board and could not only be in respect of the applicant alone.

5. It has already been held by Supreme Court in State of Haryana v/s. Rai Chand Jain reported at AIR 1997 SC 2691 that fixation of cut off date is a policy decision of Government which cannot be interfered with. The statutory rules for promotion require as an essential condition of 3years qualifying service and since the applicant did not have this eligibility

he can have no claim for consideration for promotion to the post of Accountant., As the Accountants cadre training course is for only those who are eligible to take the departmental test, the applicant can therefore lay no claim for nomination to such a training course.

6. In the result, the OA is dismissed. There is no order as to costs.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER(A)

K.M. Agarwal
(K.M. AGARWAL)
CHAIRMAN

abp.