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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

O.A. No. 540/92

Date of Decision: 11.11.1992

~~Exhibit No.~~

M.r B. Shankaraiah

Petitioner.

Mr. VR Bhadriah

Advocate for
the Petitioner(s)

Versus.

The Director of Accounts Postal & another

Respondent.

Mr. NV Ramana

Advocate for
the Respondent
(s)

COR. M:

THE HON'BLE MR. R.Balasubramanian, Member (Admn.)

THE HON'BLE MR. C.J.Roy, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters or not ?
3. whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on Columns 1,2,4 (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

HRBS
M(A)

HCJR
M(J)

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.540 of 1992

DATE OF JUDGMENT: 13/10 OCTOBER, 1992

BETWEEN:

Mr. B. Shankaraiah

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Applicant

AND

1. The Director of Accounts (Postal),
Andhra Circle,
Hyderabad.

2. The Director General (P&T),
New Delhi.

..

Respondents

MR. P. L. K. Sarma for

COUNSEL FOR THE APPLICANT: Mr. V. R. Bhadraiah

COUNSEL FOR THE RESPONDENTS: Mr. N. V. Ramana, Addl. CGSC

CORAM:

Hon'ble Shri R. Balasubramanian, Member (Admn.)

Hon'ble Shri C. J. Roy, Member (Judl.)

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER(JUDL.)

This application is filed under Section 19 of the Administrative Tribunals Act 1985 (13 of 1985) claiming a relief, "to consider the case of the applicant for promotion of LD Clerk in response to the Examination held in 12/87 and consequently declare the impugned letter No.184/Admn.I/EA-IV/Exams. dated 1.6.1992 as illegal, arbitrary, null and void in the interest of justice".

2. It is stated that the applicant has participated in the examination conducted by the 1st respondent for the post of Lower Division Clerk held in 1987 and the results were announced on 23.12.1988 and he has not qualified in the typewriting examination, as such he was not given the LDC post.

3. The applicant was appointed as Attender in the 1st respondent's office on 29.8.1979. Then he was promoted as Sorter from 28.4.1982 and since then he was working as such without any complaint.

4. Since the announcement of the result, the applicant made several representations but the 1st respondent informed him

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that he has failed in the typewriting test and no marks will be added to the typewriting and his request cannot be considered for the post of LDC. The applicant was also informed that "no review of results is admissible in respect of the typewriting test."

5. The applicant avers that ^{as per} the directions of the Government of India and letter No. 26-2/81-SPB-I, dated 4.5.1981 issued by the Director General of Postal and Telegraphs, New Delhi, he is entitled for grant of grace marks, irrespective of the typewriting test. He further avers that intention of the Government by issuing the above direction is basing on the provisions of Art.15(4) and 16(4) of the Constitution of India. The SC/ST candidates to be given relaxation upto the level of general category as these communities of backward and their back ground does not warrant them to compete with the general candidates. The said letter clearly states, "those who are considered not unfit for promotions should be given grace marks to bring upto the qualifying standard. There is no limit for the grace marks and grace marks in more than one paper will be permissible".

6. In this case, the applicant was denied marks though he was working since his appointment by discharging his duties to the utmost satisfaction of his superiors. The

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respondents ~~xxxxxxxx~~ in their letter dated 6.1.1992 clearly informed that "relaxation in percentage of marks is allowed for SC and STs but not to the extent which is required". Again in another letter they have specifically informed that "no review of results is admissible in respect of typewriting paper". Hence, it is clear that each letter is contradicting in nature. The applicant avers that he is entitled to the post of LDC. The impugned order is illegal. Hence, this application.

7. We have heard the learned counsel for the applicant Mr. P.L.K.Sarma, Proxy Counsel for Mr. V.R.Bhadraiah, learned counsel for the applicant and Mr. N.V.Ramana, learned Additional Standing Counsel for the Respondents.

8. Annexure at Page No.6 is the marks secured by the applicant in the typewriting test. Annexure at Page No.7 is the letter dated 6.1.1992 from the Director, office of the Director for Scheduled Castes and Scheduled Tribes addressed to the applicant stating that the applicant was not eligible to be selected as LDC as he has not qualified in the typewriting test, and that the relaxation in percentage of marks is allowed for SCs and STs but not to the extent which is required for him. Annexure at Page No.9 is the letter No.184/Admn.I/EA.IV/Exams, dated 1.6.1992 from the office of the Director of Accounts (Postal), Andhra Circle, Hyderabad addressed to the applicant stating that the case

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of the applicant was not cleared by the review committee as the applicant was not qualified in the typewriting paper and according to the orders of the Postal Directorate contained in letter No. 3-3/86-PACE/294, dated 13.5.1986, no review of results is admissible in respect of 'typewriting' paper. Annexure at Page No.8 is the letter dated 9.6.1992 from the office of the Director for SC & ST addressed to the applicant stating that no review of results is admissible in respect of typewriting paper. Annexure at Page No.10 is the letter dated 4.5.1981 of the D.G., P&T, New Delhi with regard to review ~~xxxxxx~~ of the candidates who failed in the examination in respect of SC/ST candidates.

9. The applicant appeared for the examination held in December 1987. The results were announced on 23.12.1988 but the applicant filed this O.A. on 2.7.1992 and it was registered on 6.7.1992. It is seen that when the examination was held in December 1987 and the results were published on 23.12.1988, the applicant made representation only on 6.1.1992 i.e., after four years of the results which were declared on 23.12.1988. It is not known to us why the applicant has kept quiet all these four years. Subsequent representations do not save limitation as per the Hon'ble Supreme Court in "S.S.R. ^Athore Vs. State of M.P. (AIR 1990 SC 10)".

10. There is no counter filed but the case was heard at the admission stage. Immediately after the results were

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published, the applicant has not made any representation. Therefore, he has not exhausted the alternative remedy as stated in Section 20 of the Administrative Tribunals Act, 1985. It is also barred under Section 21 of the Administrative Tribunals Act, 1985. The applicant should have approached within one year if no representation is made and if representation is made within 1½ years for redressal of his grievance. Both these things have not been done by the applicant.

11. Besides, the letter No.I-1/77/91, dated 9.6.1992 (Annexure at Page-9) clearly indicates that 'as per the orders contained in letter No.3-3-86/PACE/294, dated 13.5.1986 of the Postal Directorate, no review of results is admissible in respect of typewriting paper'. The Department is entitled to change the policy decision from time to time. Therefore, we see, there is no contradiction in the letters dated 6.1.1992 which says "relaxation in percentage of marks is allowed for SCs and STs but not to the extent which is required for the applicant" and the letter dated 9.6.1992 stated supra.

12. Hence, we hold that this application is not maintainable as the alternative remedies are not exhausted within time and also the application is barred by Section 21 of the Administrative Tribunals Act, 1985. On both the points, the application is not maintainable.

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OJ

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13. Hence, the application is dismissed at the admission stage itself. No order as to costs.

R. Balasubramanian

(R. BALASUBRAMANIAN)
Member (Admn.)

Attn
(C.J. ROY)
Member (Judl.)

Dated: 13th October, 1992.

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Deputy Registrar (J)

To

1. The Director of Accounts (Postal)
Andhra Circle, Hyderabad.
2. The Director General (P&T) New Delhi.
3. One copy to Mr. V. R. Bhadraiah, Advocate
1-7-803/12/4/5, Gemini Colony Chowrasta,
Zamistanpur, Hyderabad-48.
4. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd.
5. One spare copy
6. one copy to D.R (J)

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*7th copy
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