

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 07.7.2004

OA 39/2002

Krishna Gopal Ojha s/o Shri P.N.Ojha r/o 45/15/9, Mahandi Rata Lane,
Swarnpath, Mansarovar, Jaipur.

... Applicant

Versus

1. Union of India through Director General, Employees State Insurance Corporation, Kotla Road, New Delhi.
2. Employees State Insurance Corporation through its Regional Director, Regional Office, Bhawani Singh Marg, Jaipur.

... Respondents

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (J)

HON'BLE MR.A.K.BHANDARI, MEMBER (A)

For the Applicant

... Mr.P.P.Mathur

For the Respondents

... Mr.U.D.Sharma

O R D E R

The applicant has filed this OA thereby praying for the following relief :

"by an appropriate order or direction, the respondents may kindly be directed to immediately take action in the matter of the applicant for treating his services as regular or his services should be treated regular atleast now in view of the fact that he was selected at the time of his appointment itself. In this regard, the applicant may also kindly be awarded all consequential benefits as he is entitled with the benefit of promotion on the higher post, as the respondents have promoted the Class-IV employees junior to the applicant on the post of LDC followed by UDC."

2. Notice of this OA was given to the respondents, who have filed their reply. In the reply it has been stated that the applicant was appointed on ad hoc basis and his services cannot be regularised dehorse the rules. The respondents have also filed additional reply, in which it has been stated that recently the Corporation has taken a decision to conduct a Special Qualifying Examination for regularisation of adhoc LDCs and Stenographers and the said examination was proposed to be held on 4.5.2003. On the basis of such decision, respondent No.2 issued Memorandum dated 9.4.2003, by which the concerned adhoc employees had been informed about holding of the said examination on 4.5.2003. The name of the applicant finds place at S.No.3 therein. However, the said examination was proposed to be held on 11.5.2003, as intimated vide

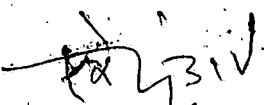
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letter dated 24.4.2003. The said Special Departmental Qualifying Examination was held on 11.5.2003 and the result thereof was declared by respondent No.1 vide office order No.10 of 2003 issued under No.A-36(13)/2000-Exam. dated 1.7.2003, wherein the name of the applicant did not find place. Meaning thereby, the applicant had failed and had not qualified in the said examination. The respondents have also submitted in the reply that on earlier occasion also the applicant had appeared in the competitive examination but failed in the said examination also.

3. We have heard the learned counsel for the parties. Learned counsel for the applicant submits that his case has not been properly considered by the respondents pursuant to Special Departmental Qualifying Examination held on 11.5.2003 inasmuch as no weightage of past experience has been given to him. We have considered the submissions made by the learned counsel for the applicant. Since in the present OA, case of the applicant is not based on the scheme under which the aforesaid examination was held in the year 2003, as such, it is not permissible for him to raise this contention. It will be open for the applicant to raise such contention, as may be available under law, by filing subsequent OA, if so advised. At this stage, learned counsel for the applicant wants to withdraw the OA.

4. In view of what has been stated above, the applicant is permitted to withdraw this OA with liberty to file a duly constituted OA, in case he is aggrieved by the Special Departmental Qualifying Examination held in the year 2003.

5. The OA stands disposed of accordingly with no order as to costs.


(A.K.BHANDARI)
MEMBER (A)


(M.L.CHAUHAN)
MEMBER (J)