

(1)

**Central Administrative Tribunal
Jabalpur Bench**

OA No.444/05

Jabalpur, this the 21st day of July 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Mr.A.K.Gaur, Judicial Member

Ajay Singh
Peon
Son of Shri Govind Singh
CA 7(P) Section now Admin Goard
Signal Records
Jabalpur.

Applicant

(By advocate Shri V.S.Rajput on behalf of
Shri S.P.Sethi)

Versus

1. Union of India through
Secretary
Ministry of Defense
New Delhi.
2. Officer-in-Charge
Signal Records
Jabalpur.
3. Officer Commanding
Signal Records
Jabalpur.

(By advocate Shri S.K.Mishra)

O R D E R

By A.K.Gaur, Judicial Member

The applicant has sought issue of a direction to the respondents to consider and finalize his promotion on the basis of the test already held on 29.11.04. The applicant has claimed that he was appointed as a peon on 16.2.98 and posted at Jabalpur. The respondents had declared six vacancies of Lower Division Clerks and invited applications from candidates. The applicant also applied for the said post. The request of the applicant for treating him as a departmental candidate was acceded to and he was allowed to appear as a

H

departmental candidate in the examination held on 29.11.2004. It is submitted on behalf of the applicant that he was declared successful in the written test but he could not succeed in the typing test. However, on account of not passing the typing test, the applicant contends that his promotion may not be withheld. The applicant accordingly made a representation to the competent authority stating that promotion to the post of LDC from Group-D officials should be made on the basis of seniority cum fitness and not by conducting written test. However, no heed was paid by the respondents to the representation made by the applicant. The applicant got a legal notice served on the respondents on 16.2.2005. Being aggrieved by the inaction of the respondents, the applicant has filed this OA seeking the relief mentioned herein above.

2. Learned counsel for the applicant has filed Annexure A-2, the copy of the letter of Signal Abhilekh Karyalaya, Signal Records, Jabalpur dated 25.1.2005. On a perusal of this letter, it is clearly observed that certain Group-D employees of the respondents had made a request to the competent authority to the effect that they should be promoted to the post of LDC on the basis of seniority cum fitness and not by conducting any written test/interview.

3. The respondents by means of filing a counter reply have denied the allegation contained in the OA. It has been stated on behalf of the respondents that as per the procedure in vogue, a test was conducted by the board of officers on 29.12.2004 for promotion to the post of LDC under 10% quota. Two junior employees i.e. the applicant and another peon had qualified in the written test but failed in typing. Board proceedings were put up to OIC Records for approval. In the meantime, two senior Group-D employees of Signals Records, Jabalpur submitted representations for the post vide application dated 15.1.05 (R-1) stating that Group-D employees should be promoted to the post of LDC based on seniority cum fitness and not by conducting any written test/interview. The case in dispute was referred to Army HQs for decision vide letter dated 25.1.05. The Army HQs had confirmed that no test has been prescribed for promotion of Group-D employees and the request of the individuals may be examined in

view of the provisions of the above rules. The respondents have further contended that as per the instructions of the Army HQs, Group-D employees will be promoted to the post of LDC based on seniority cum fitness. The test which was conducted on 29.11.04 had been cancelled and this fact has been intimated to the Group-D employees of Signals Records (R-3).

4. We have carefully gone through the records of the case and also heard the arguments advanced on either side. In our considered view, since there is no provision in the Recruitment Rules to conduct any test for promotion to the post LDC from Group-D employees, the applicant can have no claim that he should be considered for promotion on the basis of the test conducted, which has already been cancelled. The argument advanced on behalf of the applicant has no substance in the eyes of law. The respondents cannot be directed to act against the Recruitment Rules. At the same time, the applicant cannot claim promotion in violation of the statutory rules. In view of the above observation, the OA is devoid of merits and is dismissed.

No costs.

(A.K. Gaur)
Judicial Member

(Dr. G.C. Srivastava)
Vice Chairman

aa.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि अज्ञातिः—

- (1) राधिय, उच्च शायास्त्र वार उपर्युक्ताने जबलपुर
- (2) आकेशव श्री/महिला/वडाके काउंसल
- (3) प्रधार्या श्री/महिला/वडाके काउंसल
- (4) चंद्रपाल, दोप.म., जबलपुर नगारकोड़ी

सूचना एवं आवश्यक कार्यालयी

S.P. Sethi] 228
P.K. Mishra] 232

उप रजिस्ट्रर

25/7/06